

Urgent Appeal on Israel's Impunity and Shielding of an Israeli Soldier who Killed Iyad Al-Hallaq, a Palestinian Person with Disability, on 30 May 2020 in Jerusalem

Date: 10 July 2023

For the attention of:

- The United Nations Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, Ms Francesca Albanese;
- The United Nations Special Rapporteur on the rights of persons with disabilities, Mr Gerard Quinn;
- The United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr Morris Tidball-Binz;
- The United Nations Special Rapporteur on contemporary forms of racism, Ms K.P. Ashwini;
- The United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Ms Alice Jill Edwards;
- The United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Ms Tlaleng Mofokeng;
- The United Nations Special Rapporteur on the independence of judges and lawyers, Ms. Margaret Satterthwaite;
- The United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala D. Ní Aoláin; and
- The United Nations Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Mr. Fabian Salvioli.

Introduction

Al-Haq submits this follow up urgent appeal to the UN special procedures on the shielding of Israeli perpetrators for the wilful killing of Iyad Khayri Al-Hallaq, a 31-year-old Palestinian resident of Jerusalem and person with disability, by Israeli occupying forces (IOF), in east Jerusalem.

1. Background to the Killing of Iyad Khayri Al-Hallaq, 31

On 30 May 2020, Iyad Khayri Al-Hallaq, a 31-year-old Palestinian resident of Jerusalem and person with disability, was shot and killed by the Israeli occupying forces (IOF) in the Old City of Jerusalem. Iyad suffered from an intellectual disability with autistic traits and physical disabilities that affected his hearing and movement. He was shot and killed as he was heading to Elwyn Centre, a day centre for youth and adults with disabilities, and thus “posed no threat to the lives of those around him at the time”, as evidenced by Al-Haq’s field monitoring and



documentation.¹ Indeed, a court document revealed that Israel’s paramilitary border police chased Iyad down and shot four bullets at him “as he covered next to a bin”, hitting him twice.² The shooting and killing of Iyad by the IOF in an apparent extrajudicial execution and wilful killing, violates international human rights law and international humanitarian law, and may amount to an international crime giving rise to individual criminal responsibility.³ Further Al-Haq notes that the Convention on the Rights of Persons with Disabilities is applicable to the occupied Palestinian territory, including East Jerusalem, noting that Article 11 of the Convention provides, that “States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of [...] armed conflict [...]”.

2. Failure to hold the perpetrator accountable crystallising the lack of rule of law in Israel

On 6 July 2023, the Jerusalem district court acquitted the border police officer charged with reckless manslaughter of the autistic Palestinian man. Not only the soldier was acquitted, but he “will also return to the force and go to a ‘commanders’ course in a few weeks”.⁴ The court ruled that the accused faced a dangerous situation he dealt with by a split-second decision, and was acting in self-defence and “good faith” when he killed Iyad al-Hallaq, whom he believed to be an attacker, and added that this was “an integral part of military activity”.⁵ Notably, the officer claimed that Iyad was a terrorist “because he was wearing black gloves and a black face mask- which was not unusual given that it was just a few months into the COVID-19 pandemic- “looked back as he was walking” and “was about to murder a woman” who turned out to be the teacher of the Iyad.⁶ Notwithstanding that she yelled at the police to stop and that he had “special needs”, the accused went on and shot and killed Iyad al-Hallaq.⁷ The decision of the Jerusalem district court differs from the police investigation according to which “the officer had defied instructions to stop shooting and had acted in a ‘reckless’ manner”.⁸

This acquittal stands in sharp contrast with international human rights law which require States to investigate and prosecute “potential cases of unlawful deprivation of life, meting out punishment and providing full reparation”.⁹ In particular, States, “where they know or should

¹ Al-Haq, “Urgent Appeal to the United Nations Special Procedures on the Extrajudicial Execution and Wilful Killing of Palestinian Person with Disability Iyad Al-Hallaq by the Israeli Occupying Forces on 30 May 2020 in East Jerusalem”, 8 June 2022, available at: <https://www.alhaq.org/advocacy/16963.html>.

² Al-Jazeera, “Israeli court acquits officer of killing autistic Palestinian man”, 6 July 2023, available at: <https://www.aljazeera.com/news/2023/7/6/israeli-court-acquits-officer-of-killing-autistic-palestinian-man>.

³ Al-Haq, “Urgent Appeal to the United Nations Special Procedures on the Extrajudicial Execution and Wilful Killing of Palestinian Person with Disability Iyad Al-Hallaq by the Israeli Occupying Forces on 30 May 2020 in East Jerusalem”, 8 June 2022, available at: <https://www.alhaq.org/advocacy/16963.html>.

⁴ Yumma Patel, “Israel acquitted Eyad al-Hallaq’s killer. Then Ben-Gvir called his mom a terrorist.”, Mondoweiss, 7 July 2023, available at: <https://mondoweiss.net/2023/07/israel-acquitted-eyad-al-hallaqs-killer-then-ben-gvir-called-his-mom-a-terrorist/>.

⁵ Al-Jazeera, “Israeli court acquits officer of killing autistic Palestinian man”, 6 July 2023, available at: <https://www.aljazeera.com/news/2023/7/6/israeli-court-acquits-officer-of-killing-autistic-palestinian-man>.

⁶ Yumma Patel, “Israel acquitted Eyad al-Hallaq’s killer. Then Ben-Gvir called his mom a terrorist.”, Mondoweiss, 7 July 2023, available at: <https://mondoweiss.net/2023/07/israel-acquitted-eyad-al-hallaqs-killer-then-ben-gvir-called-his-mom-a-terrorist/>.

⁷ *Ibid.*

⁸ Al-Jazeera, “Israeli court acquits officer of killing autistic Palestinian man”, 6 July 2023, available at: <https://www.aljazeera.com/news/2023/7/6/israeli-court-acquits-officer-of-killing-autistic-palestinian-man>.

⁹ General Comment No. 36 Article 6 (Right to life), Human Rights Committee, 27 July 1990, para. 19.



have known of potentially unlawful deprivations of life”, are under the obligation to “investigate and, where appropriate, prosecute the perpetrators of such incidents, including incidents involving allegations of excessive use of force with lethal consequences”.¹⁰ Furthermore, this failure to enforce criminal law demonstrates once again Israel’s unwillingness to investigate suspected war crimes and prosecute the authors, entailing the competence of the International Criminal Court to step in and take over pursuant to the principle of complementarity enshrined in Article 17 of the Rome Statute.¹¹ For example, unwillingness to investigate may be inferred from the fact that “[t]he proceedings were or are being undertaken or the national decision was made for the purpose of shielding the person concerned from criminal responsibility for” war crimes.¹²

Commenting on the decision, the victim’s father highlighted the discriminatory nature of the system where “there is one legal system” for the Jews”, “and for the Arabs, there is another”.¹³ Lawyer Omar Khamaysa added that the court is a tool of oppression against the Palestinian people, to the point that [t]here is no justice when the victim is Palestinian and the perpetrator is Jewish”. This is well illustrated by this case as “there was no motive or justification for the shooting based on suspicion only”.¹⁴

As previously warned by Al-Haq,¹⁵ this development is of significant concern to the extent that it further strengthens the culture of impunity for Israeli settlers and soldiers for crimes committed against Palestinians.¹⁶ Indeed, in 2021, a mere 1.2% of complaints against officers ended up in criminal indictments.¹⁷ Even when there is an indictment for serious crimes including murder, the sentencing is so reduced that it operates as a shielding of the perpetrator. For example, Elor Azaria, an Israeli soldier who killed Palestinian man Abdel Fattah Al-Sharif, while he was unarmed and wounded, was released after only 9 months of imprisonment.¹⁸ In this regard, Al-Haq has further shed light on the endorsement by the executive and judicial branches of Israel’s “five-decade-long practice” of extrajudicial killing.¹⁹

This is all the more alarming considering the ongoing escalation of violence, the rising death toll in Palestinian bolstered by a far-right coalition and politicians openly inciting violence against Palestinians.²⁰ This includes the statement made by Israeli National Security Minister

¹⁰ General Comment No. 36 Article 6 (Right to life), Human Rights Committee, 3 September 2019, para. 19, 27.

¹¹ Article 17(1)(a) and (b), Rome Statute (1998).

¹² Article 17(2)(a), Rome Statute (1998).

¹³ Al-Jazeera, “Israeli court acquits officer of killing autistic Palestinian man”, 6 July 2023, available at: <https://www.aljazeera.com/news/2023/7/6/israeli-court-acquits-officer-of-killing-autistic-palestinian-man>.

¹⁴ *Ibid.*

¹⁵ Al-Haq, “Impunity for Extrajudicial Killing: Israeli Soldier and Killer of Abdel Fattah Al-Sharif Released after Mere 9 Months in Prison”, 11 May 2018, available at: <https://www.alhaq.org/advocacy/6225.html>.

¹⁶ Al-Haq, “Impunity Prevails Once Again: Israeli Court Sentences IOF Killer of Nadim Nuwwara to Nine Months Imprisonment”, 26 April 2018, available at: <https://www.alhaq.org/advocacy/6237.html>.

¹⁷ Yumma Patel, “Israel acquitted Eyad al-Hallaq’s killer. Then Ben-Gvir called his mom a terrorist.”, Mondoweiss, 7 July 2023, available at: <https://mondoweiss.net/2023/07/israel-acquitted-eyad-al-hallaqs-killer-then-ben-gvir-called-his-mom-a-terrorist/>.

¹⁸ Al-Haq, “Impunity for Extrajudicial Killing: Israeli Soldier and Killer of Abdel Fattah Al-Sharif Released after Mere 9 Months in Prison”, 11 May 2018, available at: <https://www.alhaq.org/advocacy/6225.html>.

¹⁹ Al-Haq, “Joint Submission for the 4th cycle of the Universal Periodic Review for Israel”, 11 October 2022, section VIII, available at: <https://www.alhaq.org/advocacy/20683.html>.

²⁰ Al-Jazeera, “Palestinian’s Huwara should be wiped out: Top Israeli minister”, 1 March 2023, available at: <https://www.aljazeera.com/news/2023/3/1/israel-arrests-settlers-after-anti-palestinian-pogrom>; TOI Staff, “Visiting Evyatar, Ben Gvir tells settlers to ‘head for the hilltops’, expand outposts”, The times of Israel, 23 June



Itamar Ben-Gvir during the proceedings in the Iyad Al-Hallaq case encouraging Israeli forces to carry on with their illegal practices: “hero soldiers who protect the State of Israel with their lives will get a hug and full backing from me and from the Israeli government.”²¹

Conclusion and Recommendations

In conclusion, the present acquittal falls short of Israel’s obligation to investigate and prosecute grave human rights violations. To the extent that the conduct of the Israeli border police officer who killed Iyad Al-Hallaq amounts to the war crime of wilful killing and the commission of crimes against humanity targeting the Palestinian people, including the crime of apartheid, the lack of genuine investigation into and prosecution of these acts result in the Office of the Prosecutor of the ICC being competent to include them into the scope of its ongoing investigation.

In light of the above, Al-Haq calls on the relevant UN Special Procedures mandates to:

- i. Publicly condemn the gross miscarriage of justice and Israel’s failure to level up to its international obligations this acquittal represents;
- ii. Recognise institutionalised impunity for Israel’s widespread and systematic human rights violations against Palestinians, including within Israeli judicial mechanisms, as forming part and parcel of Israel’s apartheid regime of systematic racial oppression and domination over the Palestinian people as a whole;
- iii. Call out Israel's defunct legal system that sanitises war crimes and provides for impunity of the perpetrators;
- iv. Call for international justice and accountability for widespread and systematic human rights violations committed against the Palestinian people, including suspected war crimes and crimes against humanity, by urging third States to activate universal jurisdiction mechanisms, as recommended by the UN Commission of Inquiry on the 2018 protests in the occupied Palestinian territory, and by calling for the immediate opening of a full, thorough, and comprehensive investigation by the ICC into the Situation in Palestine.

2023, available at: <https://www.timesofisrael.com/visiting-eyvatar-ben-gvir-tells-settlers-to-head-for-the-hilltops-expand-outposts/>.

²¹ Yumma Patel, “Israel acquitted Eyad al-Hallaq’s killer. Then Ben-Gvir called his mom a terrorist.”, Mondoweiss, 7 July 2023, available at: <https://mondoweiss.net/2023/07/israel-acquitted-eyad-al-hallaqs-killer-then-ben-gvir-called-his-mom-a-terrorist/>.