



## **Special Focus: IOF Kills Six Palestinians, including a Child, in the Second Week of December 2018**

Reporting period: 11-14 December 2018

**Date: 23 January 2019**

As Israel escalated its attacks against the protected Palestinian population, six Palestinians, including a child, were killed between 11 and 14 December 2018. In addition, Palestinian citizen **Saleh Omar Barghouthi**, 29, has been subjected to an enforced disappearance since his detention by the Israeli Occupying Forces (IOF) on 12 December 2018, given that no proof of his fate or whereabouts have been provided by the Israeli authorities, as of the time of writing. According to Al-Haq's documentation, 14 Palestinians were killed by the Israeli Occupying Forces (IOF) throughout the month of December 2018. In 2018, 303 Palestinians, including 60 children, were killed by the IOF. This piece focuses on the incidents of killing in the context of the Great Return March protests in the Gaza Strip and other isolated incidents in the West Bank between 11 and 14 December 2018.

### **1. The killing of Omar Hassan Awwad**



On Tuesday, 11 December 2018, at around 9:50 am, the IOF killed 24-year-old **Omar Hasan Awwad**, who was driving a grey Mitsubishi car in Al-Ras, west of Ithna village, west of Hebron, some 300 metres from the Annexation Wall.

*Photo of Omar Awwad, 24, killed by the IOF on 11 December 2018, as circulated online.*

Omar, a resident of Ithna village in Hebron, used to work in construction and copper smelting to earn a living. On Tuesday, 11 December, Omar left his house at around 8:00 am and went with a friend to Al-Marbiah area in order to smelt copper, in an area near the Annexation Wall. Once finished with their work, Omar drove his car towards Ithna, while his friend followed on his motorcycle. When Omar reached Al-Ras area, a private car, with a Palestinian license plate, intentionally tried to get in his way. Omar tried to avoid it



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by driving in the opposite direction of the road, when two Israeli soldiers got out of that car and opened fire at Omar, shooting him with four live bullets, hitting him in the back.<sup>1</sup> Consequently, Omar lost control of the car and collided with a big rock. The soldiers prevented anyone from reaching Omar and his car. They also did not provide him with any medical assistance. One of the eyewitnesses, Intisar Salem, told Al-Haq:

*“I heard live bullets being fired in the direction of the grey Mitsubishi car, when the driver lost control and hit a big rock. The driver was left to bleed for 20 minutes, while the soldiers did not provide any medical assistance, but pointed their weapons at me and my sister in law when we tried to approach him. Following this, my neighbour... managed to approach the driver and moved him to the ambulance that arrived at the location after 30 minutes...”<sup>2</sup>*



*Photo of the vehicle Omar Awwad was driving when he was shot by the IOF on 11 December 2018 (c) Al-Haq.*

<sup>1</sup> Al-Haq Affidavit No. A794/2018, given by Muhammad Abd Al-Qader Theeb, a resident of Al-Ras area in Ithna, Governorate of Hebron, on 15 December 2018.

<sup>2</sup> Al-Haq Affidavit No. A793/2018, given by Intisar Muhammad Salem, a resident of Ithna, Hebron Governorate, on 15 December 2018.



The ambulance then transferred Omar to Al-Ahli Hospital in Hebron, where Omar was pronounced dead shortly after his arrival. According to the Israeli authorities, Omar was killed while attempting to run over Israeli soldiers.<sup>3</sup> However, Al-Haq's documentation instead shows that Omar was actually driving away from the soldiers, with no intention of attacking them. According to an eyewitness testimony given to Al-Haq, although Omar posed no threat to the lives of the Israeli soldiers, he was shot repeatedly with live ammunition. Al-Haq stresses that no necessity justified the IOF's resort to excessive lethal force against Omar.<sup>4</sup> Critically, Omar was left to bleed for about 20 minutes without being provided medical treatment for his injuries. An ambulance was only able to reach the scene about half an hour later after he was shot.

## 2. The killing of Ahmad Yasser Abu Abed



Also on Tuesday, 11 December 2018, at around 8:00 pm, four-year-old **Ahmad Yasser Abu Abed**, succumbed to wounds he sustained from IOF fire on Friday, 7 December 2018, during the 37<sup>th</sup> week of the Great Return March protests east of Khan Younis,<sup>5</sup> in the occupied Gaza Strip. On that day, Yasser Sabri Abu Abed, 36, had been with his son, Ahmad, participating in the 37<sup>th</sup> week of the Great Return March protests in east of Khan Younis, alongside hundreds of other women, children, youth and elderly.

*Photo of four-year-old Ahmad Abu Abed, as circulated online.*

The Great Return March, which began on 30 March 2018, has called for an end to Israel's unlawful closure of the Gaza Strip and prolonged occupation of the Palestinian Territory, in addition to the realisation of the right of Palestinian refugees to return to

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<sup>3</sup> See i24NEWS, "Two Palestinian car-ramming attempts into Israeli forces in West Bank" (12 December 2018), available at: <https://www.i24news.tv/en/news/international/middle-east/190717-181211-two-palestinian-car-ramming-attempts-into-israeli-forces-in-west-bank>.

<sup>4</sup> Article 3, Universal Declaration of Human Rights (UDHR) (1948). See also, Article 6(1), International Covenant on Civil and Political Rights (ICCPR) (1966).

<sup>5</sup> See also Al-Haq, "Eight Months On: 173 Palestinian Protesters Killed and Thousands Injured by the IOF during Gaza's Great Return March" (13 November 2018), available at: <http://www.alhaq.org/advocacy/topics/gaza/1320-eight-months-on-173-palestinian-protesters-killed-and-thousands-injured-by-the-iof-during-gazas-great-return-march>.



their homes and property.<sup>6</sup> In response to the protests, the IOF has resorted to excessive use of force and lethal force against Palestinian protesters, killing 183 and injuring thousands of others since 30 March 2018, some with permanent injuries.<sup>7</sup>

Yasser and his four-year-old child, Ahmad, stood on Jakar Street, some 250 metres from the fence east of Khuza'a, east of Khan Younis, when Israeli soldiers, deployed behind the fence, opened fire at the unarmed protesters in the area, injuring both Ahmad and his father, Yasser. In his affidavit to Al-Haq, Yasser recalled:

*“I heard gunshots and I suddenly felt pain in my right hand and my left thigh. I then heard my son Ahmad shouting and crying, putting his hand on his right eye, as his face was bleeding. I realised he was injured. Some of the Palestinians carried my child to an ambulance that was about 20 metres behind us and took me and my son to the field hospital near the return camps, where the doctors tried to stop the bleeding. Ten minutes later, we were transferred to the Gaza European Hospital, where doctors performed two operations on me and my son. The doctors told us that Ahmad had been hit by bullet shrapnel in his right eye and stomach. My son was in a coma until his death on Tuesday, 11 December. We buried him the next morning...”<sup>8</sup>*

### 3. The Enforced Disappearance of Saleh Omar Barghouthi



On 12 December 2018, **Saleh Omar Barghouthi**, 29, was stopped near the town of Surda, northeast of Ramallah, while he was driving his taxi on the road leading to Birzeit. Saleh was taken out of his vehicle, his hands were tied behind his back, and he was thrown into a white bus by masked Israeli soldiers dressed in black.

*Image of Saleh Barghouthi, subjected to an enforced disappearance by the IOF since 12 December 2018, as circulated online.*

<sup>6</sup> See Al-Haq, “30 March: 15 Palestinians Killed, More than a Thousand Injured, as IOF Violently Suppress Palestinian Protestors in the Gaza Strip” (31 March 2018), available at:

<http://www.alhaq.org/advocacy/topics/gaza/1206-30-march-15-palestinians-killed-more-than-a-thousand-injured-as-iof-violently-suppress-palestinian-protestors-in-the-gaza-strip>.

<sup>7</sup> Al-Haq’s Monitoring and Documentation Department, figure as of 22 January 2019.

<sup>8</sup> Al-Haq Affidavit No. A801/2018, given by Yasser Sabri Abu Abed on 17 December 2018.



A few hours later, the Israeli Intelligence (Shin Bet) announced Saleh's death, claiming that he is amongst those responsible for an attack, which had taken place two days prior, near Ofra settlement in Ramallah. Saleh's father was informed by an Israeli intelligence officer of his son's death, who admitted, "we killed Saleh." However, Saleh's family called into question the facts of the alleged killing, noting that they had received no conclusive evidence as to their son's fate or whereabouts following his detention by the IOF, while the Israeli authorities offered conflicting statements of what had happened to Saleh.

Critically, Al-Haq stresses that Saleh's family continues to be denied the right to know the truth as to what happened to Saleh, while the IOF has failed, over a month since, to grant his mother her request to see her son and know his whereabouts. Accordingly, Al-Haq believes that Saleh Barghouthi continues to be subjected to an enforced disappearance, in violation of international law.<sup>9</sup> Al-Haq has closely followed the case of Saleh Barghouthi and communicated with international bodies, including the United Nations (UN) special procedures, to ensure that the Barghouthi family is granted the right as the victim's next of kin to know the truth and to receive clarifications as to Saleh's fate and whereabouts. Notably, Al-Haq has received a response from the UN Working Group on Enforced or Involuntary Disappearances to the effect that the case is being considered.<sup>10</sup>

#### 4. The killing of Ashraf Waleed Na'alwa



*Image of Ashraf Na'alwa, 23, killed by the IOF on 13 December 2018, as circulated online.*

On Thursday, 13 December 2018, at around 1:30 am, a large number of Israeli soldiers and special forces raided Askar Refugee Camp, northeast of Nablus. The IOF surrounded a building owned by the Bashkar family in the Camp, bombed it, and shot into it. Two hours later, at around 3:30 am, the soldiers left the building carrying a covered body and put it in a military jeep. Later, the Israeli

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<sup>9</sup> Al-Haq, "Al-Haq Sends Urgent Appeal to UN Special Procedures on the Enforced Disappearance of Saleh Omar Barghouthi" (27 December 2018), available at: <http://www.alhaq.org/advocacy/topics/right-to-life-and-body-integrity/1339-al-haq-sends-urgent-appeal-to-un-special-procedures-on-the-enforced-disappearance-of-saleh-omar-barghouthi>.

<sup>10</sup> See Al-Haq, "United Nations Working Group on Enforced or Involuntary Disappearances Sends Response to Al-Haq on the Case of Saleh Barghouthi" (31 December 2018), available at: <http://www.alhaq.org/advocacy/topics/right-to-life-and-body-integrity/1341-united-nations-working-group-on-enforced-or-involuntary-disappearances-sends-response-to-al-haq-on-the-case-of-saleh-barghouthi>.



news announced the killing of 23-year-old **Ashraf Waleed Na'alwa**, who the IOF alleged is responsible for an attack that had taken place near Barkan settlement on 7 October 2018.<sup>11</sup>

Ashraf Na'alwa, who resided in Al-Shweikah neighbourhood in Toulkarem, was a worker in the Barkan industrial settlement. On 7 October 2018, Ashraf was accused of carrying out an attack in the settlement, which resulted in the killing of two Israeli settlers.<sup>12</sup> The IOF had been searching for Ashraf for 67 days before killing him on 13 December 2018.

According to Al-Haq's field documentation, a large number of masked and armed Israeli soldiers raided Askar Camp in the early hours of 13 December, surrounded the Bashkar family building, and targeted an apartment on the second floor. In her affidavit to Al-Haq, Ikhlas Rajeh Bashkar, a resident of the building, stated:

*"We heard sounds of heavy explosions and gunshots for a whole hour. My children and I were really afraid, especially when the soldiers raided our own house. We were surprised to know that the IOF found Ashraf in our building. After the soldiers took his body, we went to the location to see what had happened. We saw a lot of blood in one corner of the room with many [bullet] shell cases in the same place. The damage was extreme..."*<sup>13</sup>

The neighbours called an ambulance but because of the closure imposed by the IOF on the Camp, the ambulances were not able to reach the area. The Israeli soldiers arrested all male residents of the building, took the body out, and left at around 3:30 am. It should be noted that Ashraf's body continues to be withheld by the IOF as of this moment. Moreover, as another form of collective punishment, the Israeli occupying authorities punitively demolished Ashraf's family home in Al-Shweikah neighbourhood in Toulkarem, on 17 December 2018.

## 5. The killing of Hamdan Tawfiq Al-Ardah

On Thursday, 13 December 2018, at around 3:30 pm, the IOF opened fire and killed 58-year-old **Hamdan Tawfiq Al-Ardah**, in the industrial zone near the northern entrance of

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<sup>11</sup> See Yaniv Kubovich and Jack Khoury, "Israeli Army Kills Palestinian Who Carried Out West Bank Terror Attack Two Months Ago" (Haaretz, 13 December 2018), available at: <https://www.haaretz.com/israel-news/israeli-army-kills-palestinian-who-carried-out-terrorist-attack-two-months-ago-1.6544324>.

<sup>12</sup> *Ibid.*

<sup>13</sup> Al-Haq affidavit No. A804/2018, given by Ikhlas Bashkar, a resident of Askar camp, on 13 December 2018.



Al-Bireh. The IOF opened heavy fire at Hamdan's private car as he was driving to his place of work in Al-Bireh through an area that the IOF had raided at the time. The IOF claims that Hamdan had attempted to run over Israeli soldiers during their raid of the industrial zone of Al-Bireh.<sup>14</sup>

Hamdan is the director of the Palestinian Aluminum Company, located in the Al-Bireh industrial zone of Al-Bireh. Hamdan had used the same road to get to work for years, until his killing on 13 December.<sup>15</sup> According to Israeli media reports, the IOF later confiscated security cameras from shops and questioned people in the area.

*Image of Hamdan Al-Ardah, killed by the IOF on 13 December 2018, as circulated online.*

Several eyewitnesses told media sources that Hamdan was startled, and hence stepped on the wrong pedal.<sup>16</sup> In a video released by B'Tselem, Israeli soldiers are caught on camera as they continued to shoot at Hamdan's car, even after his car had stopped.<sup>17</sup> In addition, and after identifying the driver, neither the IOF nor the "Shin Bet" security services interrogated Hamdan's family, unlike other cases where Israeli forces have suspected that a person was intentionally carrying out a ramming attack.<sup>18</sup>

## **6. The Killing of Mahmoud Yousef Nakhleh**

On Friday, 14 December 2018, the IOF raided Ramallah and confrontations erupted between the IOF and Palestinians in different areas. According to Fadwa Abdallah Safi, a resident of Al-Jalazon Refugee Camp, Palestinian youth were running away from the IOF on Nablus Street in Ramallah, while the IOF were chasing them and heavily shooting live

<sup>14</sup> See Amira Hass, "Israel Army Refuses to Return Body of Palestinian Shot by Soldiers" (Haaretz, 20 December 2018), available at: <https://www.haaretz.com/israel-news/.premium-israel-refuses-to-return-body-of-palestinian-shot-by-soldiers-1.6765917>.

<sup>15</sup> Al-Haq Affidavit No. A790/2018, given by Firas Hamdan Al-Ardah, 24, Hamdan's son and a resident of Araba in the Jenin Governorate, on 15 December 2018.

<sup>16</sup> See Amira Hass, "Israel Army Refuses to Return Body of Palestinian Shot by Soldiers" (Haaretz, 20 December 2018), available at: <https://www.haaretz.com/israel-news/.premium-israel-refuses-to-return-body-of-palestinian-shot-by-soldiers-1.6765917>.

<sup>17</sup> See the video released by B'Tselem at "December 2018: Israeli forces shoot and kill three Palestinians on the grounds that they intentionally ran over Israelis – in incidents that never occurred" (03 January 2019), available at: [https://www.btselem.org/press\\_releases/20190103\\_killing\\_of\\_awwad\\_ardah\\_and\\_abasi](https://www.btselem.org/press_releases/20190103_killing_of_awwad_ardah_and_abasi)

<sup>18</sup> See Amira Hass, "Israel Army Refuses to Return Body of Palestinian Shot by Soldiers" (Haaretz, 20 December 2018), available at: <https://www.haaretz.com/israel-news/.premium-israel-refuses-to-return-body-of-palestinian-shot-by-soldiers-1.6765917>.



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bullets and tear gas canisters at them.<sup>19</sup> As the youth ran away, they reached Al-Jalazon Refugee Camp, where Fadwa witnessed the IOF dragging 18-year-old Palestinian **Mahmoud Yousef Nakhleh**. In an affidavit to Al-Haq, Fadwa states:

*“There were about 15 children, followed by around eight Israeli soldiers [...] and as I opened the main door to my house, I saw four armed soldiers on a hilltop, ten metres away from my main door. The soldiers were carrying a youth from his four limbs while the youth was hanging with his face facing the sky, seemingly unconscious”.*<sup>20</sup>

*Image of Mahmoud Nakhleh, killed by the IOF on 14 December 2018, as circulated online.*



Fadwa continued:

*“the moment the soldiers saw me, one of them threw a sound grenade at me, but I managed to avoid it [...] At that moment, a Palestinian ambulance arrived, and as the driver got out of the ambulance to deliver aid, the Israeli soldiers beat and kicked him away, forcing him to leave. After that, the soldiers carried Mahmoud for around 60 metres and threw him on the ground when they reached the sidewalk of the street [in the camp]. My daughter Tasneem was taking a video<sup>21</sup> of the events with her cell phone, while the soldiers were pointing their weapons at us... Afterwards, and after leaving Mahmoud lying on the ground for several minutes, the soldiers carried him again with his back to the floor, likely touching the asphalt, and took him to Nablus Street where the [Israeli] army patrols were located, and eventually threw him onto the ground there. At that moment, my husband, my daughter Tasneem, and I approached Mahmoud. He was lying on his back. The soldiers had stripped his shirt up to his chest and pulled his pants down to his knees.”*<sup>22</sup>

<sup>19</sup> Al-Haq Affidavit No. A799/2018, given by Fadwa Abd-Allah Safi, a resident of Al-Jalazon Refugee Camp, Governorate of Ramallah and Al-Bireh, on 16 December 2018.

<sup>20</sup> Al-Haq affidavit No. A799/2018, given by Fadwa Abd-Allah Safi, a resident of Al-Jalazon Refugee Camp, Governorate of Ramallah and Al-Bireh, on 16 December 2018.

<sup>21</sup> The video of the fatal shooting of Mahmoud Nakhleh has been posted to Al-Haq’s YouTube channel, and is available at: <https://www.youtube.com/watch?v=bAPXqPuIu54>.

<sup>22</sup> Al-Haq affidavit No. A799/2018, given by Fadwa Abd-Allah Safi, a resident of Al-Jalazon Refugee Camp, Ramallah Governorate, on 16 December 2018.



Following the IOF's withdrawal from the area, a Palestinian ambulance took Mahmoud to Ramallah Hospital, where he underwent surgery. His death was pronounced at around 5:30 pm that day. Mahmoud was amongst 15 youths who were hit with tear gas canisters and live bullets during the confrontations between them and the IOF that day.

## **7. Conclusion and Legal Analysis**

During the reporting period of 11 to 14 December 2018, the IOF killed six Palestinian civilians, including a child, in the OPT, arbitrarily depriving them of their right to life. Al-Haq notes that this figure does not include Saleh Barghouthi, given that no proof of his fate or whereabouts has been provided by the IOF since his enforced disappearance on 12 December 2018. The cases presented above illustrate the IOF's persistent resort to excessive and disproportionate lethal force against Palestinian civilians, through the use of live ammunition, amongst other lethal and non-lethal weapons. Such conduct violates the UN Code of Conduct for Law Enforcement Officials, which states that "law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty."<sup>23</sup>

### **Excessive Use of Force and the Right to Life**

The killings resulting from the IOF's excessive use of force, as discussed in this report, not only amount to arbitrary deprivations of Palestinians' right to life, but also violate international human rights law provisions on the respect for the right to security of person and to dignity, applicable in the OPT.

Notably, Omar Awwad, Mahmoud Nakhleh, Hamdan Al-Ardah, and the four-year-old Ahmad Abu Abed, were all unarmed civilians, killed as a result of the IOF's excessive and unnecessary use of lethal force against them. Their killings violate Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), protecting the right to life. They also violate the UN Code of Conduct for Law Enforcement Officials,<sup>24</sup> as well as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which provides that "[l]aw enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury... and only when less extreme means are insufficient to achieve these objectives."<sup>25</sup>

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<sup>23</sup> Article 3, UN Code of Conduct for Law Enforcement Officials.

<sup>24</sup> Article 3, UN Code of Conduct for Law Enforcement Officials.

<sup>25</sup> Principle 9, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990).



Meanwhile, the killing of four-year-old Ahmad Abu Abed reflects the IOF's indiscriminate attacks against protected Palestinian civilians, including children, and the use of unnecessary and excessive lethal force to suppress peaceful protests and assemblies, especially in the occupied Gaza Strip since 30 March 2018.<sup>26</sup> Ahmad's killing amounts to an arbitrary deprivation of his right to life, in violation of Article 6(1) of the ICCPR, while it further violates Article 38 of the Convention on the Rights of the Child (CRC), which requires special respect and protection for children in times of armed conflict.<sup>27</sup>

### **The Right to Access Medical Care**

The denial of access to medical assistance for those injured violates the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, according to which medical assistance must be provided to injured individuals "at the earliest possible moment".<sup>28</sup> In the case of Omar Awwad, the IOF left Omar to bleed to death, not allowing anyone to reach the scene, including the ambulance, which arrived half an hour later. In the case of Mahmoud Nakhleh, the IOF dragged him and threw him to the ground, injured, and left him to bleed. The IOF's conduct in both cases illustrates a failure to provide injured Palestinians with medical assistance, violating the right to health of the protected Palestinian population, encompassing timely access to healthcare and medical assistance, in accordance with Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>29</sup>

The disregard for both Omar and Mahmoud's lives, including through failure to provide them with medical assistance, amounts to an arbitrary deprivation of their right to life under Article 6(1) of the ICCPR and further violates Israel's obligation, as Occupying Power, to ensure the respect for the right of the occupied Palestinian population to the highest attainable standard of physical and mental health.<sup>30</sup> Al-Haq stresses that Israel's conduct towards Mahmoud Nakhleh further amounts to cruel, inhuman, or degrading treatment, in violation of Article 16(1) of the Convention against Torture and Other

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<sup>26</sup> Israel's suppression of protests violates Palestinians' right to freedom of peaceful assembly, as enshrined in Article 21 of the ICCPR.

<sup>27</sup> Article 38(1), Convention on the Rights of the Child (1989).

<sup>28</sup> Principle 5(c), UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990).

<sup>29</sup> Al-Haq, "IOF Targets Palestinian Civilians with Lethal Force, killing 13 across the OPT" (22 November 2018), available at: <http://www.alhaq.org/documentation/weekly-focuses/1324-iof-targets-palestinian-civilians-with-lethal-force-killing-13-across-the-opt-weekly-focus-reporting-period-22-28-october-2018>

<sup>30</sup> Article 12, International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966).



Cruel, Inhuman or Degrading Treatment or Punishment (CAT)<sup>31</sup> and Article 7 of the ICCPR.

### Collective Punishment

The withholding of bodies and the punitive demolition of Palestinians' homes further amount to prohibited collective punishment against the families of the deceased. As of 15 January 2019, Al-Haq has recorded the withholding of 21 bodies of Palestinians by the Israeli occupying authorities, some of them killed in 2016. Meanwhile, in 2018, Israel carried out 17 punitive demolitions of Palestinian homes, amounting to collective punishment.

Al-Haq recalls that collective punishment violates Article 33 of the Fourth Geneva Convention. In 2016, the UN Secretary-General has confirmed that, “[i]n addition to amounting to collective punishment, the withholding of bodies is inconsistent with Israel’s obligations as an occupying Power pursuant to the Fourth Geneva Convention (Articles 27 and 30), and violates the prohibition of torture and ill-treatment.”<sup>32</sup>

As of the time of writing, Hamdan Al-Ardah and Ashraf Na’alwa’s bodies continue to be withheld by the Israeli authorities, while Saleh Barghouthi has been subjected to an enforced disappearance, denying their families the right to know the truth. The withholding of the bodies of Palestinians killed by the IOF, denies their families the right to bury the deceased in dignity and in accordance with their traditions, while it also impedes any possibility of investigating the circumstances in which they were killed, including the performance of an autopsy, should the family wish to do so.<sup>33</sup> As such, the practice of withholding Palestinians’ bodies violates the prohibition on ill-treatment under Article 7 of the ICCPR and Article 16(1) of CAT.<sup>34</sup> Al-Haq further notes that extensive destruction of property not justified by military necessity and carried out unlawfully and wantonly, including as a result of punitive house demolitions, amounts to

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<sup>31</sup>Article 16(1), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984).

<sup>32</sup> UN General Assembly, Israeli Practices Affecting the Human Rights of the Palestinian People in the Occupied Palestinian Territory, including East Jerusalem, Report of the Secretary-General, 30 August 2016, UN Doc. A/71/364, para. 25.

<sup>33</sup> For more information, see Al-Haq “Newly Adopted Law to Withhold the Bodies of Palestinians Killed Breaches International Law, Must be Repealed” (14 March 2018), available at:

<http://www.alhaq.org/advocacy/topics/right-to-life-and-body-integrity/1197-newly-adopted-law-to-withhold-the-bodies-of-palestinians-killed-breaches-international-law-must-be-repealed>.

<sup>34</sup> See also UN Committee against Torture, Concluding observation on the fifth periodic report of Israel, Article 6, 3 June 2016, UN Doc. CAT/C/ISR/CO/5, paras. 42-43.



a war crime under the Rome Statute of the International Criminal Court, giving rise to individual criminal responsibility.<sup>35</sup>

Overall, the IOF's raids on Ramallah and Al-Bireh, and the closures imposed during the reporting period, during which the IOF were searching for an alleged Palestinian suspect, restricted Palestinians' freedom of movement and amount to unlawful collective punishment against the protected civilian population, in breach of the rules of customary international humanitarian law, including Article 50 of the 1907 Hague Regulations, according to which "[n]o general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible."<sup>36</sup>

### **The Right to Fair Trial and to Standards of Due Process**

Al-Haq recalls that Ashraf Na'alwa was allegedly accused of carrying out an attack, during which two Israeli settlers were killed on 7 October 2018. The IOF pursued Ashraf for over two months, and then targeted him with lethal force when they found him on 13 December. Ashraf was killed in the complete absence of due process, violating his right to be presumed innocent and to a fair trial, and breaching the standards set forth under Article 14 of the ICCPR. The killing of Ashraf Na'alwa amounts to an arbitrary deprivation of his right to life, in violation of Article 6(1) of the ICCPR. Given the targeted nature of Ashraf's killing, it may further amount to wilful killing, punishable as a war crime under Article 8(2)(a)(i) of the Rome Statute of the International Criminal Court, and giving rise to individual criminal responsibility.

In light of the above, Al-Haq calls on Israel to comply with its obligations towards the protected Palestinian population, especially when resorting to the use of force and firearms against Palestinian civilians. Israel must carry out genuine, transparent, and public investigations into the killings outlined above, in addition to others committed over the years. Al-Haq notes that the abovementioned incidents may fall within the purview of the Commission of Inquiry established by the UN Human Rights Council on 18 May 2018,<sup>37</sup> to investigate violations and suspected crimes committed in the OPT since 30 March 2018.

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<sup>35</sup> Article 8(2)(a)(iv), Rome Statute of the International Criminal Court (1998).

<sup>36</sup> Article 50, Hague Regulations concerning the Laws and Customs of War on Land (1907).

<sup>37</sup> See Al-Haq, "Al-Haq Attends 28th Special Session of the UN Human Rights Council on the Situation in Palestine, Calls for Accountability" (22 May 2018), available at: <http://www.alhaq.org/advocacy/targets/united-nations/1255-al-haq-attends-28th-special-session-of-the-un-human-rights-council-on-the-situation-in-palestine-calls-for-accountability>.