

Escalations in Killings in the Occupied West Bank

Reporting Period: 4 March 2019 – 17 March 2019

Date: 8 April 2019

During the reporting period from 4 to 17 March, Al-Haq documented escalations in clashes and killings throughout the West Bank. On 4 March 2019, following the breakdown of a military jeep, and subsequent car crash, Israeli soldiers fired gunshots at injured passengers in the car resulting in the killing of **Amir Mahmoud Daraj** and **Yousef Raed Anqawi**. As of 8 April, the bodies of the deceased have not been released by Israel to the families for burial. To date, Al-Haq has documented the withholding of 34 bodies of Palestinians by Israeli authorities, including some who were killed in 2016¹. The practice of withholding bodies is a continuing unlawful practice undertaken by Israel as a measure of collective punishment, directed against the victims' families.

1. The Killing of Amir Mahmoud Daraj, 20, and Yousef Raed Anqawi, 20



An Israeli bulldozer transporting the confiscated Palestinian car after the accident

¹Al-Haq, "IOF Targets Palestinian Civilians with Lethal Force, Killing 13 across the OPT" (23 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>; For more information on the Israel's punitive withholding of Palestinians' bodies, see: Al-Haq, "Newly Adopted Law to Withhold the Bodies of Palestinians Killed Breaches International Law, Must be Repealed" (14 March 2018), available at: 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repealed>

“On 4 March 2019, fifteen Israeli soldiers arrived in with a military jeep and arrested Yusuf Mahmoud Al-Deek from his house at approximately 2:45 a.m. They withdrew from the village down to the main road where another two to three Israeli military jeeps were waiting. There, the military jeep transporting Yusuf broke down, forcing them to halt. The area did not have street lights, so the Israeli soldiers turned on around 10 torches. According to eyewitnesses, the vehicle lights were turned on for a limited period of time. However, there were no signs or reflectors to signal their presence. Two cars, whose passengers were on their way to work were denied passage as the IOF had closed the road. They had been waiting further up the street for the military convoy to move.

At approximately 3:50 a.m. a car, with the passengers Amir Mahmoud Daraj, 20, Yousef Raed Anqawi, 20, and Haitham Jumaa Alqam, 20, advanced towards the military jeeps at a speed of 80 km/hour. This was a very high speed considering the sharp turn further up the street. Majid Abu Rahma, who was waiting in one of the two cars, tried to signal the presence of the military convoy further up the street. The car, however, continued with the same speed. Majid Abu Rahma then heard the car breaking and colliding with an Israeli military jeep. It is important to note, that as it was in the middle of the night and with the absence of street lights, alongside poor weather conditions and rain, the visibility was very limited, thus making it harder to notice the Israeli military jeeps in order to slow and stop the car. One gunshot was heard,



The scene of the car accident shortly after the event took place. Copyright Al-Haq March 2019

followed by shouting in Hebrew. Around four minutes later, six gunshots were fired towards the Palestinian car. Notably, the drivers were not posing any imminent threat to the soldiers as they had been injured. The IOF later confiscated a private camera from an adjacent shop and took away the car driven by Amir, Yousef and Haitham. The soldiers then spread sand to

cover the road. A Palestinian ambulance arrived 20 minutes after the accident, but was denied access to the injured about 100 meters from their location.

Whether or not first aid was provided by the soldiers to the injured Palestinians is yet unclear as the eyewitness had limited visibility to the scene. However a helicopter later arrived to the scene. Both **Amir Mahmoud Daraj** and **Yousef Raed Anqawi** were killed in the car crash, and Haitham Jumaa Alqam was arrested by the soldiers even though he had been injured. He is still under detention by the IOF² and the bodies of Amir Mahmoud Daraj and Yousef Raed Anqawi are being withheld by Israeli authorities.

2. Clashes and Killings in Salfit



The sniper, who allegedly killed Mohammed Jamil Shahin, with his sniper helmet and M16 with its machine legs. Copyright Al-Haq March 2019

Mohammed Jamil Shahin, 23

On 12 March 2019, at approximately 4:00 p.m. eight Israeli military vehicles stormed Salfit with the aim of confiscating DVR cameras from private and public properties. They wanted to track the vehicle number of an unidentified gunman who had allegedly fired at a settler bus the previous day, near a settlement, north of the settlement of Ariel.

² Al-Haq affidavit no. E/107/2019, given by anonymous, on 4/3/2019

Youth in Salfit threw stones and glass containers at the Israeli soldiers, who retaliated by firing tear gas canisters, rubber bullets and sound bombs. Protesters created a roadblock from garbage bins and rocks between the Al-Madinah and Al-Shuhada roundabout. Nine Israeli border police and one sniper, all wearing green border patrol uniforms, engaged in the clashes with a group of demonstrators at the Al-Madinah Al-Munawwarah Street. The sniper, had an M16 rifle, on machine legs and a sniper's helmet. He took position behind the roadblock.

At about 5:20 p.m. the Israeli sniper shot **Mohammed Jamil Shahin**, 23, in the left side of his chest. Mohammed was standing approximately 150 meters away, at the Al-Shuhada roundabout watching the clashes between the youth and IOF. His friend, Ahmed Fouad Maraita was standing beside him and "heard a soundlike a 'buzz', I was suprised by it [...] Within moments I saw my friend Mohammed starting to run and then I heard the sound of young men screaming". Muhammed dropped to the ground from to his injury. The young men opened his shirt and found some minimal bleeding from the wound. Two minutes later an ambulance arrived and transferred him to Yasser Arafat hospital. At approximately 7:00 p.m. **Mohammed Jamil Shahin** was pronounced dead at the Yasser Arafat Hospital in Salfit. In total, 40 palestinians were wounded during the clashes that took place in Salfit that day.³

Legal Analysis

Critically as Occupying Power, the policing duties of the Israel Occupying Force (IOFs) in the Occupied Palestinian Territory (OPT) are governed by international human rights law, including Article 6 of the International Covenant on Civil and Political Rights (ICCPR) which affirms "no one shall be arbitrarily deprived of his life". Additioanlly Israeli soldiers are bound to comply with provisions of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,⁴ according to which "Law Enforcement Officials shall not use firearms against person except in self-defence or defence of others against imminent threat of death or serious injury". In addition, Article 3 of the Code of Conduct for Law Enforcement Officials restricts the use of force to situations where it is "strictly necessary".⁵

It is clear from the above documented killings that the IOFs use of firearms was neither strictly necessary nor in self-defense. For example, in Salfit, **Mohammed Jamil Shahin** was standing at a substantial distance of 150 meters away from the soldiers, he did not possess any firearms and showed no signs of intent of attacking the soldiers, thus, did not pose any imminent threat to the life of the Israeli soldiers. Nonetheless, the sniper shot Mohammed in the left side of his chest where the heart lies. The sniper had clear aim and stability to shoot due to his sniper tripod and position.

Similarly **Amir Mahmoud Daraj, Yousef Raed Anqaei** who were injured as a result of the car accident with the broken down Israeli military jeep, could not have posed an imminent threat to the life of the IOF soldiers at the time that they were killed. Nevertheless, the car accident was followed by seven gunshots fired by the IOF towards the car, in quick succession. The

³ Al-Haq affidavit no. E /128/2019, given by Ahmed Fouad Maraita, a resident of Salfit city, on 13/3/2019

⁴ Special provision no. 9, UN "Basic principles on the Use of Force and Firearms by Law Enforcement Officials" (1990)

⁵ Article 3, UN Code of Conduct for Law Enforcement Officials (1979)

documented killings represent an intentional and unnecessary deprivation of the right to life of the protected Palestinian civilian population and may amount to wilful killing, a grave breach of Article 147 of the Fourth Geneva Convention and war crime under Article 8(a)(i) of the Statute of the International Criminal Court.⁶

Right to Health

Al-Haq is particularly concerned that the IOF blocked the Palestinian ambulance which arrived to treat Amir Mahmoud Daraj, Yousef Raed Anqaei and Haitham Jumaa Alqam. Blocking access to medical aid constitutes a breach of Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which recognises “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”.⁷ Due to the limited visibility of the witnesses, it is unclear whether or not the IOF soldiers provided first aid to the injured in this incident. Nonetheless, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials require that “whenever the use of force and firearms is unavoidable, law enforcement officials shall [...] ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment”.⁸ Accordingly, IOF soldiers were under an obligation to provide first aid to the injured and secure medical aid access instead of blocking it.

Withholding of Bodies of the Deceased

Al-Haq condemns the continuing Israeli practice of withholding the bodies of the deceased, including **Amir Mahmoud Daraj, Yousef Raed Anqaei** from burial. This violates Article 50 of the Hague Regulations which prohibits the infliction of a penalty upon the population “on account of the acts of individuals”.⁹ It is also a breach of Article 33 of the Fourth Geneva Convention which prohibits collective penalties.¹⁰ In this regard, customary international humanitarian law stipulates that parties to an armed conflict must respect the dead who “must be disposed of in a respectful manner.”¹¹ It further obliges parties to the conflict to return the remains and personal effects of the deceased to their families.¹² In addition, Article 17 of the Second Geneva Convention requires that the deceased must be held in accordance with the religious rites that they belong to. According to Additional Protocol I, the families of the deceased have a right to be informed of the fate of their relatives, as part of the general principle requiring parties to the conflict to conduct their activities within this scope.¹³

⁶ Article 147, Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949) and Article 8, Rome Statute of the International Criminal Court (2002)

⁷ Article 11, International Covenant on Economic, Social and Cultural Rights (1966)

⁸ General Provision 5(c), UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990)

⁹ Article 50, The Hague Regulations concerning the Laws and Customs of War on Land (1907)

¹⁰ Article 33, Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949)

¹¹ Customary International Humanitarian Law, Rule 115. The withholding of the bodies of the deceased further amounts to the collective punishment of the protected population, prohibited under Article 50 of the Hague Regulations, Article 33(1) of the Fourth Geneva Convention, and Article 75(2)(d) of Additional Protocol I. Moreover, the practice violates the prohibition of torture and ill-treatment.

¹² Also stipulated in First Geneva Convention, Article 16; Second Geneva Convention, Article 19; Third Geneva Convention, Article 122; Fourth Geneva Convention, Article 139.

¹³ Additional Protocol I, Article 32

To date, no investigation has been initiated against any of the soldiers responsible for the three documented killings. Israel maintains a policy of evading any responsibility for harming Palestinians, and therefore, mechanisms of accountability are not only non-functional, but also reflective of its total contempt of Palestinian life, and its obligations under international law. In almost all cases of complaints, Israeli soldiers are almost never indicted¹⁴. The impunity with which Israeli soldiers act violates Article 2 of the International Covenant on Civil and Political Rights and Article 7 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials which demands that incidents where the use of force and firearms by soldiers is arbitrary shall be punished as a criminal offence.¹⁵

¹⁴ In 2016 B'Tselem had filed 739 cases the past decade to Military Advocate General. Of those only in 25 cases were charges brought against the implicated soldiers. See: "*B'Tselem to Stop Referring Complaints to the Military Law Enforcement System*", B'Tselem, 25 May 2016, www.btselem.org/press_releases/20160525_occupations_fig_leaf

¹⁵ Article 2 International Covenant on Economic, Social and Cultural Rights (1966) and Article 7 UN "Basic principles on the Use of Force and Firearms by Law Enforcement Officials" (1990)