

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the situation of human rights defenders

Ref.: AL ISR 10/2023
(Please use this reference in your reply)

13 November 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 52/9, 53/4 and 52/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received **concerning the killing of journalist and human rights defender Mr. Issam Abdallah, and the injury of journalists, media staff and human rights defenders Ms. Carman Joukhadar, Mr. Elie Barkhia, Ms. Christina Assi, and Mr. Dylan Collins**, while reporting on clashes near the village of Al-Shaab in southern Lebanon.

Mr. Abdallah was a Lebanese video journalist who had been working for Reuters for several years. He was well known for his work reporting on conflicts in Lebanon, Syria, Iraq, and the Ukraine. In 2020, he was nominated as Reuters Video Journalist of the Year for his coverage of the Beirut port blast.

Ms. Joukhadar is Lebanese a television reporter and Mr. Barkhia is a Lebanese cameraperson working with Al-Jazeera. Ms. Assi is a Lebanese photographer and Mr. Collins is an American video journalist with the French news agency France-Press (AFP).

According to information received:

On Friday evening 13 October 2023, two shells landed on a group of seven journalists and human rights defenders including Mr. Abdallah, Ms. Joukhadar, Mr. Barkhia, Ms. Assi, and Mr. Collins, who were gathered in southern Lebanon close to the border with Israel. The group of journalists had been at the location for more than one hour prior to the strikes, covering exchange of fire between the Israeli Defence Forces (IDF) and Lebanon's militant group Hezbollah. The village of Alma Al-Shaab has been the site of repeated clashes since the recent escalation of violence between Israel and Hamas on 7 October 2023.

Mr. Abdallah had been recording a live video of the exchange of fire along the border between the IDF and Hezbollah. The video footage shows a loud explosion followed by smoke blanketing the camera, and repeated screams from the Reuters press team. Mr. Abdallah was reported to have been struck by the

first missile while a second missile hit a car, which was clearly marked as a media car, setting it aflame.

Mr. Abdallah was killed by the impact of the first shell. Mr. Abdallah's colleagues from Reuters were wounded in the incident. AFP journalists Ms. Assi and Mr. Collins were seriously injured and hospitalised by the same shelling. Al-Jazeera journalist Ms. Joukhadar and cameraperson Mr. Barkhia were also amongst those wounded.

The above-mentioned journalists were wearing flak jackets with the word "PRESS" displayed in white letters across their chests and backs; clearly identifying them as media workers. Mr. Abdallah shared a video of a bombing nearby on X, formerly Twitter, two hours before he died. He also shared a photograph on social media of himself wearing a helmet and a flak jacket with the word 'press' visible on it before the airstrike.

Sources and witnesses have stated that the shell that killed Mr. Abdallah and wounded the other journalists came from east of where the journalists were standing, from the direction of the Israeli border. The Lebanese Army alleged in a statement that Israel was responsible for firing the shell. The IDF has not claimed the attack but has reported that on the evening of 13 October, its drones and tanks were striking "terrorist targets" belonging to Hezbollah in Lebanon and that "the incident was under investigation".

As of 10 November 2023, at least 32 Palestinian journalists and media workers have been killed in the last month.¹ Furthermore, 8 journalists have been injured, 3 journalists have been reported missing and 9 journalists were reported arrested as a result of the conflict.

Without wishing to prejudge the accuracy of the above-mentioned allegations, we are most gravely concerned that the killing of the media workers, including Mr. Abdallah and the injury of Ms. Joukhadar, Mr. Barkhia, Ms. Assi, Mr. Collins, comes as a direct result of their work as independent press workers. We also express our deep concern that despite being clearly identified as media workers with "press" jackets and helmets, the journalists appear to have been targeted. Two strikes in the same place in a short period of time, coming from the same direction, indicate precise targeting. We are concerned that the journalists could not have been mistaken for combatants; they were not "hiding" as they were out in the open for almost an hour in order to get clear footage of the shelling, and they and their vehicle were clearly identifiable as "press".

We stress and reiterate your Excellency's Government's obligations to protect journalists in situations of conflict and tension, in accordance with international humanitarian law and international human rights law. These obligations are set out in the 1949 Geneva Convention on the Protection of Civilian Persons in Time of War, and were cited in UN Human Rights Council Resolution (A/HRC/RES/51/9) on the "Safety of Journalists" in October 2022. Article 4 of the Third Geneva convention and article 79 of Additional Protocol of the Geneva Conventions, formally state that journalists

¹ <https://www.ohchr.org/en/statements-and-speeches/2023/11/un-human-rights-chief-visits-rafah-border-crossing-gaza>

engaged in dangerous professional missions in zones of armed conflict are civilians and as such, they enjoy the full scope of protection granted to civilians under international humanitarian law.

We call on your Excellency's Government to conduct a thorough, independent and prompt investigation into the allegations above and to take most robust measures to ensure that civilians and journalists are not targeted, and are protected from any collateral damage from military operations. Journalists play an essential role as human rights defenders, particularly when documenting and reporting on human rights violations in conflict settings, and must be recognised and protected as such.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comments you may have on the above-mentioned allegations.
2. Please indicate what action is underway to conduct a full and independent investigation into the shelling that resulted in the killing of Mr. Abdallah and the injury of Ms. Joukhadar, Mr. Barkhia, Ms. Assi, and Mr. Collins.
3. If investigations are conducted into the alleged killing, please inform if they are guided by the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, commonly known as the Minnesota Protocol?
4. Please provide information about measures taken to ensure that journalists, media workers and human rights defenders monitoring human rights violations and covering the ongoing Israel-Gaza conflict can carry out their professional activities and are duly protected in line with international human rights law and international humanitarian law.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please be informed that a copy of this letter has been also sent to the Government of Lebanon.

Please accept, Excellency, the assurances of our highest consideration.

Irene Khan

Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

The facts alleged, if proved correct, appear to be in contravention with the international human rights law, specifically the International Covenant on Civil and Political Rights (ICCPR), acceded to by Israel on 3 October 1991.

In its General Comment 6, paragraph 3, the Human Rights Committee noted that it considers article 6 (1) of the ICCPR to include that States parties should take measures to prevent and punish deprivation of life by criminal acts. In addition, in its General Comment No. 31, the Committee stated that there is a positive obligation on States Parties to ensure the protection of the rights contained in the Covenant against violations by private persons or entities, which includes the duty to take appropriate measures to prevent, investigate, prosecute and punish those responsible and repair the damage caused by private persons or entities (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18). A failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR.

Similarly, in General Comment 36, the Human Rights Committee observed that the duty to protect the right to life requires States parties to take special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence including journalists.

In his report to the UN General Assembly in 2009, the Special Rapporteur on the freedom of opinion and expression recommended that "The protection of journalists and media workers must be ensured at all times, particularly during armed conflicts", stating "the main provisions protecting journalists and other media professionals in situations of armed conflict come from humanitarian law, in particular from special measures contained in article 79 of Protocol I to the Geneva Conventions of 12 August 1949, relating to the protection of victims of international armed conflicts. This article establishes that "journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians" and "shall be protected as such under the Conventions and this Protocol, provided that they take no action adversely affecting their status as civilians". The civilian status of journalists transcends any type of contractual arrangement that the journalist may have; equal protection is granted to freelance, independent or to journalists belonging to any media." (A/HRC/11/4)

The Security Council passed resolution 1738 (2006) to express its deep concern "at the frequency of acts of violence in many parts of the world against journalists, media professionals and associated personnel in armed conflict", and it condemned intentional attacks against this group. The Security Council also underlined the obligation under humanitarian law to grant civilian status to journalists during armed conflicts, as established by the Geneva Conventions. (S/RES/1738 (2006))

Furthermore, we underscore the need to prevent targeted attacks and ensure security of the journalists by protecting and promoting the right to freedom of opinion expression, as enshrined in Article 19 of the ICCPR. We recall that the Human Rights Committee has affirmed that “States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression”. The Human Rights Committee in general comment 34 has held that “under any circumstance, can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with article 19. Journalists are frequently subjected to such threats, intimidation and attacks because of their activities. (...) All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted (...)”.

We would also like to remind your Excellency’s Government of the duty to investigate, prosecute, and punish all violations of the right to life. In general comment no. 31, the Human Rights Committee observed that there is a positive obligation on State Parties to ensure protection of Covenant rights of individuals against violations by their own security forces. Permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice could give rise to a breach of the Covenant (CCPR/C/21/Rev.1/Add.13).

In her recent report ‘Disinformation and Freedom of opinion and expression during armed conflicts’ the Special Rapporteur on the promotion and protection on the right to freedom of opinion and expression, Ms. Irene Khan, emphasised that it is now well recognized that international human rights law and international humanitarian law apply concurrently in armed conflicts. The application of international human rights law alongside international humanitarian law is vital for the effective protection of the right to freedom of opinion and expression during conflicts. Under international humanitarian law, the deliberate killing of a journalist is a war crime. [Media facilities are civilian objects] must not be targeted unless they are being used directly in hostilities. Ms. Khan recommended in her report that States “comply fully with their obligations under international humanitarian law to protect all foreign and national journalists (defined according to international human rights law) as civilians in armed conflict.”

Finally, we would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. Articles 1 and 2 of the Declaration state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.”

In particular, we could like to draw the attention of your Excellency's Government to article 6 (a) of the Declaration, which states that everyone has the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, and article 6 (b) and (c), which states that everyone has the right to publish, impart and disseminate views on all human rights and fundamental freedoms and to draw public attention to the observance of these rights and freedoms. Article 12, paragraph 2, of the Declaration further states that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in the Declaration.