

**Extra-judicial executions of Palestinians by Israeli police and security forces  
September 2016**

**I. Open-fire police regulations and “shoot-to-kill” policy**

In September 2015, during a peak in the violence, the Israeli government announced a relaxation in the police’s detailed ‘rules of engagement’.<sup>1</sup> **The amendment of these rules of engagement led to a dramatic increase in the unjustifiable use of lethal force by police**, apparently in unjustifiable circumstances, including many instances of what appear to be extra-judicial executions (EJEs), with police resorting to the harshest, often lethal means rather than first attempting to arrest the suspects. In numerous cases, the police appear to have engaged in extrajudicial executions (EJEs), which are effectively prohibited under the UN Convention Against Torture (CAT) and the International Covenant on Civil and Political Rights (ICCPR). This conclusion is corroborated by video evidence and/or first-hand witness accounts in many cases. This ‘shoot to kill’ phenomenon against Palestinian youth has become alarmingly widespread, particularly in East Jerusalem, as well as other parts of the West Bank.<sup>2</sup>

**Politicians and senior police officers have also openly called for the extra-judicial killing of suspects**, and have urged civilians to carry guns in statements that effectively endorse the extra-judicial execution of Palestinians. For example, Jerusalem District Police Commander Moshe Edri was quoted as saying, “Anyone who stabs Jews or hurts innocent people is due to be killed.” Interior Security Minister Gilad Arden declared that, “every terrorist should know that he will not survive the attack he is about to commit.” MK Yair Lapid stated, “You have to shoot to kill anyone who pulls out a knife or screwdriver.” Jerusalem Mayor Nir Barkat called on Israeli civilians who own firearms to carry them at all times.

The broad circumstances in which Israeli police officers are permitted to use firearms are set out in a set of general ‘open-fire regulations’. These regulations, which were not altered by the recent amendment, are in the public domain and based in the criminal law. According to these regulations, the use of firearms is subject to a number of conditions, including that: there must be a real, immediate danger to a person’s life and limb as a result of the action; there must be no possibility of using another means to prevent the attack; the amount of gunfire must not exceed what is reasonable to prevent the action; and the harm that might result from the gunfire must be commensurate with the harm it seeks to prevent.<sup>3</sup>

The new regulations permit officers to open fire with live ammunition, as an initial option, preceding any prior attempt to deploy non-lethal weapons – against stone-throwers and those shooting fireworks. The

<sup>1</sup> According to media reports, the relaxation of these rules applies to the areas of East Jerusalem, the Naqab/Negev and the Galilee. See, e.g. Barak Ravid, Yaniv Kubovich, Nir Hasson and Jonathan Lis, “We will also fight stone-throwers also in the Galilee and Negev,” *Haaretz*, 16 September 2015 (in Hebrew): <http://www.haaretz.co.il/news/politics/.premium-1.2731801>

<sup>2</sup> See also B’Tselem, “Unjustified use of lethal force and execution of Palestinians who stabbed or were suspected of attempted stabbings,” 16 December 2015:

[http://www.btselem.org/gunfire/20151216\\_cases\\_of\\_unjustified\\_gunfire\\_and\\_executions](http://www.btselem.org/gunfire/20151216_cases_of_unjustified_gunfire_and_executions)

<sup>3</sup> The National Headquarters Ordinance, chapter 06.02.14 (Hebrew):

[https://www.police.gov.il/Doc/pkodotDoc/sug\\_2/060214\\_2.pdf](https://www.police.gov.il/Doc/pkodotDoc/sug_2/060214_2.pdf)

regulations were updated, then vetted and authorized by Israeli Attorney General (AG) Avichai Mandelblit, and distributed to officers in December 2015 but remained classified. Sections of the regulations were finally revealed in June 2016, in response to a court petition submitted by Adalah after the police refused to release specific details.<sup>4</sup> However, despite releasing parts of its updated open-fire regulations to Adalah, the police still nevertheless refuse to reveal significant sections of the regulations. According to the new police regulations, “an officer is permitted to open fire [with live ammunition] directly on an individual who clearly appears to be throwing or is about to throw a firebomb, or who is shooting or is about to shoot fireworks, in order to prevent endangerment.” It further specified “stone throwing using a slingshot” as an example of the sort of situation that would justify the use of live ammunition.

The new regulations contradict existing general guidelines according to which the use of a deadly weapon by officers is permitted only when there is substantiated fear of danger to the life of an officer or other individual, and only if there is no other means by which this danger may be prevented.

The conclusion that the Israeli security forces are implementing a *de facto* and illegal policy of “shoot to kill” against Palestinians is supported by five case examples from Adalah’s case docket (see Appendix attachment). Adalah, together with Addameer - Prisoner Support and Human Rights Association, has represented the families of the deceased in five cases of suspected EJEs before the Israeli authorities. The cases concern incidents in which police opened deadly fire at Palestinians who appear *not* to have posed an imminent danger to them or to others when they were shot. To date, **four of these cases have been closed** with the finding that “no crime was committed.” The fifth case currently remains pending.<sup>5</sup>

## **II. Failure of Israeli authorities to investigate EJEs**

The decisions by **Mahash**, the Police Investigation Unit within the Israeli Ministry of Justice, to close nearly all the EJE cases so far are the latest examples of the extensive impunity granted to Israel’s security forces for the killings of and brutality against Palestinians. To place it into context: based on official figures, between 2011 and 2013, 11,282 complaints against the police were filed to Mahash. Out of these complaints, **93% were closed** by Mahash with or without investigation; **3.3% led to disciplinary actions** against police officers; and **only 2.7% led to any prosecution**. The recent cases of EJEs demonstrate again the ongoing absence of accountability and unwillingness of Mahash to genuinely investigate alleged violations of the law by its security forces.

In response to a letter sent by Adalah in October 2015 demanding an immediate investigation into the killing and injury of Palestinians in violation of the rules of engagement by the Israeli police, the **Attorney General (AG)** merely stated that he had **stressed the importance of the open-fire regulations** to the police and other relevant forces working on the ground, and that the cases in question had been passed to the “relevant authorities.” In the letter, Adalah cited three cases of suspected EJEs, including the case of Fadi Alloun, subject of one of the aforementioned complaints by Adalah and Addameer, and

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<sup>4</sup> Administrative Petition 23001-12-15, *Adalah v. The Israel Police (case pending)*. As long as the Israeli police do not reveal the open-fire regulations in their entirety, Adalah will continue to demand a court hearing and decision on the matter. The partially censored version of the regulations that was provided to Adalah is available at: [http://www.adalah.org/uploads/uploads/new\\_police\\_regs.pdf](http://www.adalah.org/uploads/uploads/new_police_regs.pdf) Adalah is now waiting for the court to deliver its decision regarding the still-censored parts of the regulations.

<sup>5</sup> *Haaretz* reports that the remaining case, that of 16-year-old Mu’taz Ewisat, has been closed but the official decision has not yet been released.

30-year-old Esaraa Abed, a mother of three from Nazareth who was shot dead by police at the central bus station in Afula as she stood motionless before them.<sup>6</sup>

This inadequate response from the AG, the most senior lawyer in the state, and the decisions of Mahash to close investigation files, supports the conclusion that there is a **lack of state interest in investigating these cases of EJs**. This deliberate omission results in the denial of accountability to the deceased and their families, and both dehumanizes the victims and creates an environment of impunity in which members of the Israeli security forces are not deterred by the state authorities from committing EJs against Palestinians, even when they pose no threat to life. When Israeli security forces feel assured that the investigatory authorities will not act against them for violating the open-fire regulations, in most cases failing to conduct even a limited investigation into death cases involving Palestinians, **further cases of EJs are near-inevitable**.

### **III. Denial of Autopsies, Failure to Release the Bodies of the Deceased**

Perhaps the starkest indication of Israel's unwillingness to conduct proper investigations into these killings is its repeated failure to conduct and/or denial of permission to conduct autopsies. Further, the Israel police have followed a policy of **withholding the bodies of extrajudicially-executed Palestinians**, storing the bodies of the deceased in deep-freezers, and conditioning their release to the families on several provisions, including that the bodies should be buried immediately without autopsy. Other conditions to receive the body include requiring the families to bury the deceased in one a few cemeteries chosen by the Israeli police, only to invite 25 family members to the funeral and to pay thousands of shekels as a guarantee that they would abide by the rules. In some cases the authorities have also reneged on agreements made with the families of the deceased for their release for autopsy and/or burial.<sup>7</sup> The withholding of bodies obstructs the possibility of conducting a credible investigation into the circumstances of the alleged EJs and a proper autopsy and creates strong fears of attempts to cover-up the facts of these killings.<sup>8</sup>

In addition to the denial or at least the delay of an autopsy, the withholding of the bodies in itself constitutes a **serious violation of international humanitarian and human rights law**. All human beings have the right to a prompt, decent, and dignified burial as an integral part of the right to human dignity, which also applies after death. The policy further violates the rights to freedom of religion to practice culture, by preventing the families from mourning and burying the bodies in accordance with their faith and the traditional rites and ceremonies of their communities.

On 5 May 2016, representatives of the state announced Israel's intention to release the dead bodies of Palestinians that it has been withholding "within a short space of time". The announcement came during an Israeli Supreme Court hearing held on petitions submitted by Adalah and Addameer to demand that Israel immediately release the bodies of dead Palestinians from East Jerusalem detained by the Israeli

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<sup>6</sup> For video footage of the killing, see: <https://www.youtube.com/watch?v=NvPe5p32ySM&feature=youtu.be>

<sup>7</sup> See, Adalah and Addameer, "Israeli Occupation forces continue to withhold the bodies of deceased Palestinians, and renege on conditions of release," 1 March 2016: <http://www.addameer.org/news/israeli-occupation-forces-continue-withhold-bodies-deceased-palestinians-and-renege-conditions>

<sup>8</sup> See also Al-Haq, "From Killing to Burial: Questions Left Unanswered," 10 March 2016: <http://www.alhaq.org/documentation/weekly-focuses/1028-from-killing-to-burial-questions-left-unanswered>

police.<sup>9</sup> In the aftermath of the hearing Israel released several of the bodies, including that of Mu'taz Ewisat (see case study 4). However, as of early September 2016, according to information received by Adalah from victims' families, 12 bodies are still being held by Israel.

#### **IV. Position of the UN Committee Against Torture on EJE's by Israeli forces**

On 13 May 2016, the UN Committee Against Torture issued over 50 concluding observations to Israel following its review of the state's compliance with the UN Convention Against Torture (CAT), to which it has been a party since 1991.

Addressing the cases of EJE's brought by Adalah and human rights partners, the Committee raised concerns at the allegations of excessive use of force, including lethal force, by Israel security forces against Palestinians in the West Bank, including East Jerusalem, and the access-restricted areas (ARAs) of the Gaza Strip, particularly in the context of demonstrations, in response to attacks or alleged attacks against Israeli civilians or security forces, and to enforce the ARAs of the Gaza Strip.

Thus, the Committee concluded, Israel should ensure that "the rules of engagement or regulations on opening fire are fully consistent with the Convention and other relevant international standards" and that "all instances and allegations of excessive use of force are **investigated promptly, effectively and impartially** by an independent body, that alleged perpetrators are duly prosecuted and, if found guilty, adequately sanctioned" (para. 32, 33).

Notably the UN High Commissioner for Human Rights, in a report in March 2016, also stated that, "some of these responses **strongly suggest unlawful killings, including possible extrajudicial executions**" (A/HRC/31/40, para. 10).

The UN CAT also issued concluding observations regarding the **return of the deceased Palestinian bodies**. While noting Israel's new agreement to initiate the return of the bodies, the Committee urged Israel "to return the bodies of the Palestinians that have not yet been returned to their relatives as soon as possible so they can be buried in accordance with their traditions and religious customs, and to avoid that similar situations are repeated in the future." (para. 42, 43)