



Palestinian Centre for Human Rights

Individual complaint related to the willful killing of Saad al-Majdalawi by Israeli forces in the Gaza Strip on 16 August 2011

Individual complaint presented to the UN Special Rapporteur on Extrajudicial, Summary, or Arbitrary Execution

10 September 2012

Case summary

On 16 August 2011, Saad al-Majdalawi, a 17-year-old mentally disabled boy, died when he was targeted with live fire by Israeli forces positioned on the border between the Gaza Strip and Israel. Al-Majdalawi was walking approximately 300 meters away from the border fence, posing no threat to the lives of Israeli soldiers, when he was shot and killed.

The targeted use of lethal force against al-Majdalawi, a civilian, constitutes an act of willful killing, which qualifies as a war crime under Article 8(2)(b)(i-iii) of the Rome Statute of the International Criminal Court and Article 147 of the Fourth Geneva Convention. Al-Majdalawi's inherent right to life, codified in Article 6 of the International Covenant on Civil and Political Rights, Article 3 of the Universal Declaration of Human Rights and Article 6 of the Convention on the Rights of the Child, were also violated.

Following the killing, the Israeli authorities have failed to meet their obligations under international law by not investigating the killing and refusing to provide adequate compensation to the relatives of al-Majdalawi.

PCHR has submitted a civil complaint to the Ministry of Defense, which so far has not lead to a positive outcome. Additionally, PCHR submitted a criminal complaint to the Military Prosecutor of the Israeli military, which has been rejected on 07 May 2012.

We trust that this individual complaint provides you with the information necessary to make further inquiries, in your capacity as Special Rapporteur, into the willful killing of Saad al-Majdalawi. We would like to stress the importance of your attention to systematic and ongoing willful killings of Palestinian civilians in the Gaza Strip by Israeli forces.

PCHR also wishes to express its willingness to cooperate with your possible follow-up on this matter, and to provide further information as required.

I. Personal details of victim

Name: Saad al-Majdalawi

Sex: Male

Date of birth: 27 March 1994

Date of death: 16 August 2011

Nationality: Palestinian

Civil status: Single

ID document: Palestinian ID card no.: 804631257. Issued by the Palestinian National Authority (PNA). Date of issue: 11 April 2010.

Profession and/or activity: Unemployed

Address: 6/40 Ali Bin Abi Taleb Street, Nusseirat, central Gaza Strip, occupied Palestinian territory

There were no other victims involved in this incident. However, there is a trend of similar willful killings of Palestinian civilians in the Gaza Strip, which will be explained below.

II. Information regarding the incident

Date: 16 August 2011

Place: near the Armistice Line to the east of Deir al-Balah

Time: 18:30

On 16 August 2011, around 18:30, Israeli Forces positioned on the armistice line east of Deir al-Balah fired shots with live ammunition that killed Saad al-Majdalawi, who was walking approximately 300 meters away from the armistice line.

Al-Majdalawi was hit by numerous bullets in the upper part of his body, with entries and exits from the nose, upper part of the head, the right shoulder, chest and left elbow.

The Israeli army used lethal force to kill al-Majdalawi, even though he was not posing a threat to the lives of the Israeli soldiers.

Al-Majdalawi suffered from a mental disorder.

One of the witnesses to the aftermath of the attack on al-Majdalawi is Abdul Karim Suleiman Salama Abu Amra, an ambulance driver from the Palestinian Red Crescent Association (PRCA) in Deir al-Balah. Abu Amra's station was contacted at 19:00 following which Abu Amra and his colleagues went to the area and collected the body of al-Majdalawi.

III. Information related to perpetrators

The perpetrators are believed to members of the IDF Southern Command, positioned on the armistice line, between the Gaza Strip and Israel, to the east of Deir al-Balah. PCHR is unable to further specify the rank and functions of those individuals involved in the killing of al-Majdalawi.

The use of lethal force against al-Majdalawi fits into the larger pattern of attacks carried out by the Israeli forces positioned on the border between the Gaza Strip and Israel. Israel's authorities have unilaterally and illegally established a so-called 'buffer zone' along the border. Officially, it reaches 300 meters into the Gaza Strip, but, in reality, the zone is enforced with lethal force up to 1,500 meters from the fence. Lethal force includes firing bullets, tank shells and firing missiles from drones, F16 warplanes and apaches.

In 2011, 18 civilians were killed in the extended 'buffer zone,' including 5 children. From January until the end of June 2012, 6 civilians were killed, of whom one was a child. To-date, no one has been held responsible for the death or injury of civilians in the extended buffer zone as a result of attacks by Israel's forces.

IV. Steps taken by the victim or his family:

In its capacity as the legal representative of al-Majdalawi's relatives, the Palestinian Centre for Human Rights (PCHR) has submitted:

- A criminal complaint to the Military Prosecutor for Operational Affairs - on 25 September 2011;
- A civil complaint to the Compensations Officer of the Ministry of Defense - on 21 September 2011.

V. Steps taken by the authorities:

On 26 October 2011, the Israeli Ministry of Defense sent a confirmation of receipt to PCHR, confirming that the Ministry had received the civil complaint that was submitted by PCHR on 21 September 2011.

On 27 October 2011, the Military Prosecutor for Operational Affairs sent a letter to PCHR noting the receipt of the criminal complaint submitted by PCHR on 25 September 2011. The letter further noted that the matter had been referred to the competent authorities to clarify claims set out in the complaint, and that PCHR would be informed of the outcome.

On 07 May 2012, PCHR received an official response from the Military Prosecutor for Operational Affairs noting that "fire was opened" at al-Majdalawi "when he was seen acting suspiciously near the security fence, carrying a suspicious object, while it was dusk." The response continued to state that "there is no criminal suspicion with regard

to IDF soldiers,” which is why the Military Prosecutor decided to “terminate the follow-up of the complaint and not to open an investigation by the Military Police.”

VI. Identity of the person submitting the case

Family name: al Alami

First name(s): Iyad

Status: non-governmental organization, Palestinian Centre for Human Rights (PCHR)

Address:

29 Omar Mukhtar Street, near Amal Hotel, al Rimal District,
Gaza City, Gaza Strip, occupied Palestinian territory.

P.O. Box 1328. Telephone / Fax: 972 (0)8 2824776 / 2825893

Email: pchr@pchrgaza.org

Confidentiality identity: I do not desire to keep my identity confidential with relation to this complaint.

Date:

Signature of author: