



Right Hon Philip Hammond MP
Foreign Secretary
Foreign and Commonwealth Office
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For the urgent attention of: Right Hon Philip Hammond MP

30 July 2015

Dear Mr Hammond,

Re: Fatal shooting of a fleeing Palestinian child by a senior Israeli soldier

We write to urge that the British government ensures a rigorous investigation is carried out by Israeli authorities to determine the alleged criminal responsibility of a senior Israeli soldier for fatally shooting a 17-year-old Palestinian boy, Mohammad Sami Ali Abu Kasba, on 3 July 2015 in the occupied West Bank. Mohammad was shot multiple times from behind whilst running away after throwing a stone.

Defence for Children International Palestine and B'Tselem separate investigation findings

The Ramallah-based Defence for Children International Palestine (DCIP), and the Israeli human rights organisation, B'Tselem, have separately published their findings of their investigations into the fatal shooting of Mohammad shortly after 6:30am on 3 July 2015 in the West Bank town of Al-Ram.

1. DCIP's investigation findings

DCIP took a signed witness statement from child who accompanied Mohammad to Al Ram. LPHR has been provided a copy of the child's witness statement in which he states that a stone was thrown at an Israeli soldiers' vehicle at around 6am. The soldiers then got out of their vehicle and ordered the boys to approach them who were about ten metres away. According to the child's witness statement:

“At that moment, Mohammad began running toward the camp to get away from the area. Once he was about three metres away from me, and while he was running, [the soldier] shot at him from his Tavor rifle, hitting him in the upper part of his body with seven bullets and the lower part with two bullets.”



The child's witness statement goes on to state that the soldiers drove off without offering any medical assistance.

DCIP have also provided LPHR with a signed witness statement from Mohammad's father, Sami Ali Hasan Kusba. Mr Kusba confirms that Mohammad is his third teenage son to be fatally shot by the Israeli army, causing his family severe distress. His wife is now "*in a very bad psychological state*" and has required hospital treatment.

DCIP's investigation includes discussions with the doctors who treated Mohammad at the hospital. Their investigation found that Mohammad was shot in the back at least three times, as well as in the face and the upper side of the torso, as he attempted to flee. Doctors said a shot to his jaw left his teeth shattered. Eyewitnesses state that Mohammad was about 15 metres away from the soldiers when he was shot multiple times.

2. B'Tselem's investigation findings

B'Tselem's report contains analysis of a surveillance camera showing footage of the incident at approximately 6:30am. The footage supports eye-witness accounts that Mohammad was fleeing when he was shot. In the video a military vehicle is seen stopping immediately after a stone is thrown. According to B'Tselem's analysis of the footage:

"Two soldiers emerge and begin pursuing the fleeing teenager. A third soldier is seen waiting near the vehicle. No further stone throwing is seen."

The video footage shows the soldiers "*getting into the jeep and driving away*" about thirty seconds later.

B'Tselem's investigation concluded that the fatal shooting of Mohammad by the Commander of the Binyamin Regional Brigade, Col. Yisrael Shomer, was "*unlawful and unjustified*", and:

"The location and entry points of the injuries corroborate the details provided by the eyewitness accounts and by the video footage, according to which he was shot in the back while running away from the soldiers."

Israeli military authorities conflicting account of the killing of Mohammad Sami Ali Abu Kasba

B'Tselem notes that a spokesperson for the Israeli military claims that the soldier who shot Mohammad "*felt in mortal danger and carried out suspect-arrest procedure.*"

This official account conflicts with the evidence supplied by both eye-witness accounts and the video footage, which confirm that Mohammad was running away at the time and could not have posed a mortal threat to the soldier. According to B'Tselem:



“The claim that Mohammad posed a mortal threat to the soldiers at the time of the shooting, having fled the scene, is unreasonable. There is no doubt that the shattering of the jeep’s front window with a stone endangered the passengers when it happened. However, Mohammad was shot in the back after the fact, when he was already running away and posing no “mortal threat” to the soldiers. Feeling a sense of danger is not enough to justify any action.”

International law and Israeli military law on use of live ammunition

This case engages the most fundamental of human rights: the right to life. Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR) states that “Every human being has the inherent right to life... No one shall be arbitrarily deprived of his life.” This right imposes strong obligations on states to refrain from taking life except where absolutely necessary in limited circumstances. Israel ratified the ICCPR in 1991.

Using lethal force against an individual who is not posing an imminent threat of death or serious injury does not fall within the limited circumstances permitted by this fundamental norm of international human rights law. A killing in these circumstances would therefore amount to the arbitrary deprivation of life, which is a crime under international law that requires investigation and prosecution. The Fourth Geneva Convention expressly prohibits and criminalises wilful killing. As the occupying power in the West Bank, Israel is bound by the Geneva Convention.

Israeli military open-fire regulations prohibit the opening of live fire against stone-throwers, except in cases of real mortal danger. These regulations further exceptionally permits shooting at the legs of a suspect in order to facilitate arrest as a last resort. However, as B’Tselem states, *“they [open-fire regulations] do not permit killing him [Mohammad] by firing three shots at his upper body.”*

B’Tselem has also confirmed that the soldiers’ act of driving away without offering medical assistance is a breach of military regulations which require soldiers to ensure to the extent possible that those injured by shooting receive medical assistance.

Imperative need for legal accountability

B’Tselem states that the Military Police Investigations Unit (MPIU) has launched an investigation into the incident. However, the soldier responsible has already received public support from the Spokesperson’s Unit for Israeli military forces, the OC Central Command and various Israeli public officials. For these reasons LPHR expresses its concern in relation to the robustness and credibility of the MPIU’s investigation. This concern is particularly acute in the context of B’Tselem’s conclusion that the killing of Mohammad was *“unjustified and unlawful, and that the official version presented did not accord with the facts of the incident.”*



In light of the above, LPHR urges the British government to undertake dialogue with the Israeli government on this horrific incident and insist upon the following:

1. Israel's military investigation process is thorough, credible and transparent;
2. The senior soldier allegedly criminally responsible for the fatal shooting of Mohammad Sami Ali Abu Kasba is ultimately indicted and prosecuted by the Israeli criminal justice system; and
3. Israel's authorities urgently examine the use of live ammunition against children in the West Bank, including East Jerusalem, which resulted in the fatal shooting of Mohammad Sami Ali Abu Kasba, and which caused 11 child fatalities last year.

We should be grateful for your intervention on this urgent matter.

Yours sincerely,

Tareq Shrourou (Director) and Alicia Araujo Mendonca
Lawyers for Palestinian Human Rights

CC:

Mr Tobias Ellwood MP, Parliamentary Under-Secretary at the Foreign and Commonwealth Office.