



בצלם - מרכז המידע הישראלי לזכויות האדם בשטחים (ע.ר.).

B'Tselem – The Israeli Information Center for Human Rights in the Occupied Territories

2 July 2009

Brig. Gen. Avichai Mandelblit
Judge Advocate General
The Kirya, Tel Aviv

By mail and fax (03- 5694526)

Dear Sir,

Re: Soldiers used Sami Muhammad as a human shield, 'Izbat 'Abed Rabo, Jabalya Refugee Camp, 5 January 2009

Following my letter to you of 10 May 2009 regarding the need to establish an apparatus for independent investigation into the army's conduct during Operation Cast Lead, I write now concerning another case of which we have learned of that raises suspicion that the army breached international humanitarian law.

On 5 January 2009, a few minutes after midnight, more than 15 soldiers came to the house of Sami Rashid Muhammad Muhammad, 47, in 'Izbat 'Abed Rabo, in the Jabalya refugee camp. When Muhammad went to open the door, he saw his neighbor Ra'd Abu Seif with the soldiers. The soldiers entered the house, searched it, and assembled all the occupants on the first floor. (The coordinates of Muhammad's house are E034° 29' 49.8 N31° 31' 08.5").

Around 7:30 A.M., one of the soldiers ordered Muhammad and Abu Seif to get up and accompany him to the ground floor. About two hours later, after the soldiers had removed all the family members from the house, a soldier ordered Muhammad and Abu Seif to walk ahead of him as he left the house. Dozens of soldiers were outside. They positioned Muhammad in front. Three soldiers walked behind him, then Abu Seif, and then other soldiers. The remaining soldiers walked behind them.

The soldiers ordered Muhammad to enter the house of his neighbor Jaber 'Aziz, about five meters from his house. (The coordinates of the house are E034° 29' 50.68" N31° 31' 08.5). The door of the house was open. Muhammad went inside and three soldiers followed him in. After ensuring that the house was empty, they left and ordered Muhammad and Abu Seif to enter the

nearby house of Saber 'Aziz. This house, too, had nobody inside, and the soldiers stayed there for about two hours. During that time, Palestinians fired every once in a while at the house.

When the firing stopped, four soldiers pushed Muhammad onto the patio of the house, while they hid behind him. One of them stood next to him and rested his rifle on Muhammad's shoulder. About ten minutes later, soldiers ordered Muhammad and Abu Seif to leave the house while they followed them out. (The coordinates of the house are E034° 29' 51.14"N31° 31' 08.49").

The soldiers led the two to an olive grove of Farid 'Izzat 'Abed Rabo (coordinates E034° 29' 53"N31° 31' 07"). They ordered them to walk slowly, and walked about a meter and a half behind them. Around 11:45 A.M., with the call of the muezzin to noon prayers, they got to the end of Farid 'Abed Rabo's grove and the beginning of the grove of Akram Taha 'Abed Rabo. The officer ordered them to continue walking, but then shooting at them began. (The coordinates of the grove of Akram Taha 'Abed Rabo are E034° 29' 51"N31° 31' 05".)

The soldiers lay down immediately on the ground and one of them ordered Muhammad and Abu Seif not to move. They remained standing for about 15 minutes, during which no more shooting took place. Then one of the soldiers ordered them to walk to the plot of Akram 'Abed Rabo. After a few minutes, when they reached the lemon trees on the southern side of the plot, there was more gunfire at them. One of the soldiers ordered Muhammad to continue walking south, in the direction from which the gunfire was coming. After walking for a few meters, the soldier ordered him to get down onto his knees and not move.

The soldiers began to fire toward the south, with Muhammad standing in front of them and remaining, at the soldiers' orders, between the soldiers' fire and the Palestinian fire at them. The exchange of fire lasted for about twenty minutes, when one of the soldiers ordered Muhammad to stand up and walk ahead of them toward east. At this stage, Muhammad saw Abu Seif arriving there with other soldiers. When they got to the house of Shadi 'Abed Rabo, who lives about 150 meters from Muhammad, one of the soldiers ordered Abu Seif to open the door. Abu Seif refused and said that he was afraid Palestinian combatants would be there and would shoot him. One of the soldiers shouted at him, but he still refused. Finally, one of the soldiers broke part of the house's outer wall, and the soldiers sent a dog through the opening. When the dog came back, three soldiers entered.

The soldiers ordered Muhammad to walk ahead of them to Akram 'Abed Rabo's grove and from there to the grove of Farid 'Abed Rabo, where he again saw Abu Seif. It was 2:00 P.M., and Abu Seif asked the soldiers for food and drink. They didn't give him any and ordered him and Muhammad to go into houses in the area and look for food. The two didn't find anything.

The soldiers then led Muhammad and Abu Seif to the house of Zakaria Ba'ulusha. (The coordinates of the house are E034° 29' 53" N31° 31' 06".) It was about 6:00 P.M. Many residents were in the house, and soldiers were guarding them. Again, Abu Seif asked the soldiers for food, and again they refused. About half an hour later, soldiers brought them water and ordered all of them to go to sleep.

The next day [Tuesday, 6 January], at about 8:00 A.M., Abu Seif asked the soldiers for food and told them that he had not eaten for two days. The soldiers refused. One of the people in the house said they had food on the second floor of the house. The soldiers let him go up, and he came back with a few cans of food. A few hours later, around noon, one of the soldiers brought them bread.

Around 6:00 P.M., the soldiers ordered the residents to leave the house and go into the house facing it, the house of Taha 'Abed Rabo, where they remained until the next day. On Wednesday morning [7 January], the soldiers gave the residents food and ordered them to leave. (The coordinates of the house are E034° 29' 54" N31° 31' 06".)

The soldiers' use of Sami Muhammad and Ra'd Abu Seif as human shields was illegal. As I pointed out to you in my letter of 24 June, in its decision of May 2002 on the petition filed by human rights organizations, the Israeli High Court of Justice held unequivocally that any use of Palestinian civilians in the framework of military actions is absolutely forbidden.

Article 28 of the Fourth Geneva Convention prohibits the use of civilians as human shields by placing them alongside soldiers or alongside military facilities with the intention of gaining immunity from attack. The official commentary of the Convention refers to this practice as "cruel and barbaric." Also, the Convention prohibits the use of physical or moral coercion and compulsion to take part in military actions (articles 31 and 51).

Despite these prohibitions, the soldiers used the aforesaid residents as human shields for two days, without providing them with food or drink. They compelled Muhammad and Abu Seif to carry out military actions, at real risk to their lives. Also, they positioned them facing Palestinians

who were firing at them, and made no attempt to protect them and prevent injury to them, in blatant disregard for their safety and wellbeing.

Given the severity of the incident, I request that you order an investigation into the matter. The investigation should also look into the responsibility of the command echelon, including the orders given to soldiers and commanders, and whether measures were taken to ensure that the soldiers act in accordance with the High Court's ruling.

(Attached is a disc with photos of the relevant place and its coordinates.)

Sincerely,

Jessica Montell
Executive Director

cc: Mr. Menachem Mazuz, Attorney General
Lt. Gen. Gabi Ashkenazi, Chief of General Staff