



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

25 June 2009

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

By mail and fax (03- 5694526)

Dear Sir,

Re: Soldiers used Shafiq Daher as 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 independent apparatus for investigating the army's conduct during Operation Cast Lead, I write now concerning another case of which we have learned that raises suspicion that the army acted in breach of international humanitarian law.

On Sunday, 4 January, around 4:30 P.M., about ten soldiers came to the residential building in which Shafiq Muhammad Rajab Daher, 53, lives. The building, located in 'Izbat 'Abed Rabo, in the Jabalya refugee camp, has four floors, containing four apartments in which Daher, his wife and children, his mother, and his married son and the son's family live. (The coordinates of the building are E034° 29' 55"N31° 31' 09".)

The soldiers tried to break down the front door of the building, but when Daher heard them, he went and opened it. They ordered him to lift his shirt up, and after they searched the entire building, ordered him to gather all the occupants on the first floor. They were left sitting on the first floor, without food or drink.

The next day [5 January], around 8:30 A.M., soldiers left the house with Daher and three of his grown sons and ordered the other members of the family not to leave the house. Several soldiers took the three sons, while Daher was ordered to walk in front of the soldiers, enter the house of a neighbor, Jaber Zidan, and remove the family. When Daher refused, one of the soldiers threatened him with his weapon, placing his rifle on Daher's shoulder and ordering him to walk

in front of him. Dozens of soldiers were in the area, all wearing bullet-proof vests and helmets. Some of them walked behind Daher and the soldier who threatened him.

Daher called out to the owner of the house, who opened the door. One of the soldiers ordered him to gather his whole family, ten persons in all. The soldier ordered the men to sit in one room and the women and children in another room. Then the soldiers searched the other rooms, forcing Daher to walk ahead of them.

After the soldiers completed the search, they ordered Daher to walk in front of them to the house of Mahmoud al-'Ajrami, a Palestinian-TV cameraman. The house was locked and nobody was inside. The soldiers broke down the door and pushed Daher in first. After they all entered, they searched the house and then left. (The coordinates of the house are E034° 29' 54" N31° 31' 09".)

The soldiers went to the building of Tawfiq Hamed al-Katri, while forcing Daher to walk ahead of them by threatening him with their weapons. Daher saw his sons with other soldiers. The front door to the building was locked. Soldiers brought a large hammer and ordered one of Daher's sons to break part of the outer wall. Then they ordered Daher to go through the opening and see if anybody was inside. There were seven persons inside: six women and the son of one of the women. The soldiers ordered Daher to concentrate them in one of the rooms on the ground floor, and then ordered him to go ahead of them on a search of all the rooms in the building. After the search, the soldiers ordered Daher to sit on the ground floor, while they sat down to rest and eat on another floor. (The coordinates of the building are E034° 29' 56"N31° 31' 09".)

After that, the soldiers took Daher and left the building. They ordered him to walk ahead of them, this time to the house of Jum'ah 'Abed Rabo. Here, too, they threatened him with their weapons and forced him to enter the house, assemble the family in one of the rooms and walk in front of them on a search of the house. (The coordinates of the house are E034° 29' 56"N31° 31'08".)

The soldiers told Daher that they intended to take him to another house, but then they were apparently ordered to leave the place. They ordered him to stay in Jum'ah 'Abed Rabo's house. About half an hour later, the soldiers returned and ordered Daher to walk ahead of them to the house of Muhammad 'Abed Rabo, where a search was conducted in a similar manner as before.

Around 1:00 P.M., while the soldiers were searching the house, there was gunfire towards the house. The soldiers ordered Daher to hide on the staircase, and began to shoot at the source of fire. Later, it was learned that there were armed Palestinians in the neighboring house of Um

Hatem 'Abed Rabo. (The coordinates of Muhammad 'Abed Rabo's house are E034° 29' 57"N31° 31' 08" and those of the house of Um Hatem 'Abed Rabo are E034° 29' 57"N31° 31' 09".) The exchange of fire lasted about three hours, until 4:00 P.M. or so. During this time, Daher remained on the staircase without any protection.

When the shooting died down, one of the soldiers took Daher to the house of Tawfiq al-Katri. Later other soldiers brought his three grown sons and other men to there. They remained in the al-Katri house until Wednesday, 7 January.

On Wednesday morning, the soldiers left the place and ordered Daher and the others to wait four hours before leaving the house. Around 4:00 P.M., Daher and his sons left the house and went home.

The soldiers' use of Shafiq Daher as a human shield was illegal. As you know, following the army's widespread use of Palestinian civilians as human shields, human rights organizations filed a petition in the Israeli High Court of Justice in 2002, demanding that the policy be prohibited. During the course of the hearings on the petition, the state suggested a new procedure called the "prior-warning procedure," but the justices rejected it, unequivocally holding 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 on 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 Shafiq Daher as a human shield for many hours, compelling him to carry out military actions at real risk to his life and in blatant disregard for his safety and wellbeing.

Given the severity of the incident, and the suspicion that soldiers acted not on their own initiative but in accordance with orders they received from senior officers, I request that you order an investigation, which should also examine the responsibility of the command echelon and the orders that were given in this case.

(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