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

DRAFT

HUMAN SHIELD

Use of Palestinian Civilians as Human Shields in Violation of High Court of Justice Order

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Introduction

During the al-Aqsa intifada, IDF soldiers have used Palestinian civilians as human shields. This practice was most common during IDF operations in Palestinian population centers, such as Operation Defensive Shield and Operation Determined Path.

The method is the same each time: soldiers pick a civilian at random and force him to do dangerous tasks that put their lives at risk. For example, soldiers have ordered Palestinians to:

- enter buildings to check if they are booby-trapped, or to remove the occupants
- remove suspicious objects from roads used by the army
- stand inside houses where soldiers have set up military positions, so that Palestinians will not fire at the soldiers
- walk in front of soldiers to shield them from gunfire, while the soldiers hold a gun behind their backs and sometimes fire over their shoulders.

The soldiers in the field are not the ones who initiated this practice; the use of human shields is an integral part of the orders they receive. Sergeant Nati Aharoni told the IDF magazine *B'Mahaneh* how he and other soldiers entered a building:

We had previously seized this building, so we were concerned that explosives would be waiting for us when we came back. Acting according to customary practice in such cases, we took a Palestinian who lived nearby and had him comb the site. He opened all the doors and cabinets, and didn't find anything. We shook his hand and said thanks. Then we went inside.¹

Soldiers who have given testimonies to B'Tselem confirmed the existence of this policy. A soldier who served in the Bethlehem area during Operation Defensive Shield told B'Tselem:

Before searching a house, we go to a neighbor, take him out of his house and tell him to call the person we want. If it works, great. If not, we blow down the door or hammer it open. The neighbor goes in first. If somebody is planning something, he is the one who gets it. Our instructions are to send him in and get everybody out - put the women and children in one room, handcuff the

¹ *B'Mahaneh*, 12 April 2002.

men and take them into another room. We take their ID cards and then go through the whole house with the neighbor to find the person we are looking for and take him.

In the case of a wanted person, we comb the place thoroughly. We take the person that the Shabak wants and release the others. The neighbor can't refuse. He doesn't have that option. The neighbor shouts, knocks on the door, says that the army is here. If nobody answers, we tell him that we'll kill him if nobody comes out, and that he should shout that out to the people in the house. The briefings we received [about this procedure] were from the company commander or platoon commander. The basic procedure was the same no matter who gave the briefing. Maybe the "we'll kill him," came from the company, but the rest came from the brigade level or higher. The neighbor goes onto the roof and tells everybody to get out. Then we go with him to make sure that no one else is still there.²

Another soldier described how his unit entered Palestinian houses:

After combing the house, we would take over the top floor and kept the occupants on the bottom floor. We did not let them leave, because keeping them in the house reduced the likelihood that Palestinians would try to blow-up the house or fire at us. We also used Palestinians to check suspicious objects on the roads or in houses in which we expected that Palestinians would fire at us. In my opinion, a Palestinian who is asked to do these kind of tasks could refuse without anything happening to him, but if he did, we would immediately suspect that he knows something about actions being taken against us.³

In April 2002, the international human rights organization Human Rights Watch published a report on the IDF's use of Palestinian civilians as human shields. Following publication of the report and the many testimonies received by Israeli and Palestinian human rights

² The testimony was given to Eyal Raz and Ron Dudai on 6 May 2002. The name of the witness is on file at B'Tselem.

³ The testimony was given to Eyal Raz and Ronen Schnayderman on 22 May 2002. The name of the witness is on file at B'Tselem.

organizations about the use of human shields, seven human rights organizations petitioned the High Court of Justice to end this practice.⁴

Two days after the petition was filed, the state informed the High Court that, "...the IDF has decided to issue immediately an unequivocal order to the forces in the field. The order states that forces in the field are absolutely forbidden to use any civilians as a means of "living shield" against gunfire or attacks by the Palestinian side."⁵ However, the state argued that ordering Palestinians to direct other Palestinians to leave their house does not constitute using them as human shields:

It should be noted that some of the complaints set forth in the petition do not result from the use of persons as "human shields." Rather, these Palestinian residents assist IDF forces in gaining entry to houses of other Palestinian residents during the military operations. In light of the complaints set forth in the petition, the IDF decided to clarify that even this act is forbidden in situations in which the commander in the field believes that a civilian is liable to be injured.

The change in policy was implemented almost completely. Subsequent reports received by B'Tselem dealt mostly with the use of Palestinians to arrest other Palestinians or to order them to leave their houses. However, the use of this procedure, referred to as "the neighbor procedure," is not significantly different from other ways in which the IDF used civilians as human shields. It, too, constitutes an illegal use of civilians for military purposes and is no less dangerous for the civilians in question. The fact that the "neighbor procedure" is equally dangerous to other uses of civilians was clearly demonstrated by an incident that occurred in August 2002. On 8 August, soldiers sent Nidal Abu Mukhsan, a nineteen-year-old resident of Tubas, to the house of Nasser Jarar, a Hamas activist, and ordered him to get Jarar to leave his house. When Abu Mukhsan approached the house, Jarar, apparently thinking that the person coming toward him was a soldier, shot Abu Mukhsan.

⁴ HCJ 3799/02, *Adalah – The Legal Center for Arab Minority Rights in Israel et al v. Yitzhak Eitan, OC Central Command et al*. Attorney Marwan Dalal, of Adalah, filed the petition on behalf of the seven human rights organizations: Adalah, the Center for Arab Minority Rights in Israel; Law – The Palestinian Society for the Protection of Human Rights and the Environment; Physicians for Human Rights; HaMoked: Center for the Defense of the Individual; the Public Committee Against Torture in Israel; and B'Tselem.

⁵ HCJ 3799/02, response of the respondent to the application for a temporary injunction, 7 May 2002.

B'Tselem wrote to the IDF Spokesperson regarding this incident. In response, the IDF Spokesperson's office confirmed the facts of the case and justified the use of civilians in arresting Palestinians:

The IDF regrets the harm caused to the local resident during the action, and notes that the individual was killed by terrorist gunfire. IDF soldiers did not go into the building with him, so there are no grounds for contending that this was a case of using a "human shield." The soldiers remained outside so that the Palestinian resident would warn the wanted person alone, without endangering himself. This was done on the assumption that the terrorist would not open fire at a Palestinian who entered by himself. We wish to emphasize that the action in the town was initiated against a murderous terrorist who was directly responsible for dozens of attacks against Israeli civilians and soldiers, and that the IDF opposes harming innocent people.⁶

Following this incident, the seven human rights organizations went back to court and demanded that a temporary injunction be issued forbidding the IDF's use of the "neighbor procedure".⁷ That same day, the High Court granted the application and directed the state to respond. The state has not yet responded, and the temporary injunction remains in effect.

After the High Court prohibited the use of Palestinians in the "neighbor procedure," there was a marked decrease in the number of cases in which soldiers used the procedure. However, B'Tselem documented at least five incidents in which soldiers used Palestinians as human shields in violation of the temporary injunction. The cases documented by B'Tselem do not necessarily represent all the incidents in which the interim injunction was violated.

⁶ Letter from Captain Henrietta Levy, head of Public Assistance Branch, IDF Spokesperson's office, 20 August 2002.

⁷ HCJ 3799/02, Application for Temporary Injunction, 18 August 2002.

Violation of the High Court's Order

Deir al Balah, Gaza Strip, 23 August 2002

Following an attempt to attack the Kfar Darom settlement, an armed and wounded Palestinian fled to the yard of a house in Deir al Balah. Soldiers forced, by use of threats, two Palestinians to find him and bring him out “dead or alive.” Samir Abu ‘Amra, in whose yard the armed Palestinian was hiding, went to find him. He returned to the soldiers and told them that he found him wounded, holding a grenade, and that ‘Amra refused to come out. The soldiers forced him to go back into the yard, this time along with his neighbor, Ahmad Abu ‘Amra, to bring out the armed Palestinian. The two went into the yard as the soldiers fired over their heads. Samir Abu ‘Amra collapsed towards the end of the incident and required medical treatment.

*Testimony of Samir Muhammad Hmeidan Abu ‘Amra, 28, married with two children, Palestinian Authority employee, resident of Deir al Balah, Gaza Strip*⁸

I live in a three-room apartment on top of my parents' home. My apartment is made out of tin. The house is about three hundred meters west of the Kfar Darom settlement. Residents of the area do not usually leave their homes after evening prayers, which end around 7:00 P.M. This is because the Israeli soldiers fire at the area, particularly at our street, al-Mazr'a.

Last Thursday [22 August], I was at home, as usual. Around 9:00 P.M., intense, heavy-machine-gun fire began. It was aimed at our area and at our house. When flares were fired over our roof, the children began to scream.

At some point during the night, I heard a person shouting for help. I looked out the window and asked my neighbors where the voice came from. I asked them if somebody in their house had been wounded. My neighbor replied that the sound came from my house. A little later, my mother, who has medical problems, crawled up to our apartment from the ground floor. It was around 4:30 A.M. She asked how I was and if I had been wounded. I said that I hadn't.

⁸ The testimony was given to Nabil Mekherez in Deir al Balah on 27 August 2002.

My mother suggested that we go down to the ground floor because it was safer there. It was dangerous going down because we had to go onto the roof to get to the steps. The shooting continued and flares were being fired. We had to crawl on our stomachs. My wife, who is seven months' pregnant, my mother, the children and I crawled. I was holding the children. We got to the steps and went down to the ground floor. We hid in a room that was safe.

We heard shots being fired in the direction of the room, and saw the flash of a bullet flying by the window that faces west. We heard the sound of a bulldozer approaching and stopping opposite our house. We also heard the sound of tanks. Then we heard the bulldozer begin to demolish the guestroom. The room is a separate unit that is located in the yard, near the entrance on the northern side of the house. I looked out the window facing the guest-room and yard to see what the bulldozer was doing. I thought it was going to demolish the house with us inside. The guest-room had been demolished and one of the tanks fired at me. The bullets struck a concrete pole. I crawled toward the adjacent room, where my family was. I asked them to yell. I told them that the army was demolishing our house. They began to scream and call for help, but none of the neighbors came to help us.

A few minutes later, I heard a voice calling out in Hebrew over a loudspeaker. It came from the back street, south of us. We didn't understand anything he said. Then someone called out to us in Arabic, demanding that we leave the house. We were sure that they were going to totally demolish it. My family and I went outside. I helped my father and mother who are both ill. We all went into the street.

I saw four tanks positioned opposite our house. One of them was close, parked on the ruins of the guest-room. A huge army bulldozer was parked next to the tanks. Soldiers standing opposite the house ordered us to go back inside. We started to move, but when we got near the door, the soldiers who were positioned behind the house ordered us to come over to them. We were confused, and didn't know whether to go to them or to go into the house. After waiting for a few minutes outside the house, the soldiers positioned opposite the house let us go to the back street.

As we were walking, my mother fell. She was exhausted and couldn't walk any further. My father and I supported her, and we continued walking. My mother and the children were screaming. Over the loud-speaker, the soldiers ordered us to move faster and to reach them within five minutes, otherwise they would shoot us. The gunfire continued non-stop from the time it began.

We got to the southern side, where we saw another bulldozer and three more tanks. Some neighbors were there, among them women, children, and young people, whom the army had gathered on the lot that belongs to Abu Khatab.

When we reached the soldiers, one of them called out to me. While I was walking over to him, one of the tanks fired shots over my head. The soldier told me that there was a wounded person in our house, and he ordered me to bring him out, dead or alive, within five minutes. He added, "If you don't do it, we'll shoot you and your family and demolish your house." The shots were still flying over my head, and the neighbors were screaming. The same soldier spoke to me over the loud-speaker in Hebrew. He was positioned on the tank. Our neighbor, Ahmad 'Abd al-Qader Abu 'Amra, who used to work in Israel and knows Hebrew well, translated what the soldier was saying for me.

I retraced my steps to go back to my house. When I got to the street, one of the tanks opposite the house fired over my head. I was frightened and confused. I didn't know whether to go back or to go to the house. But the soldier stuck his head outside the tank and motioned me to go into the house. I went inside and started to look around the house and yard in accordance with instructions I received from a soldier who was standing on a tank facing the house. He pointed toward the west corner. There was a water container with a pigeon coop on top of it. The soldier said that the wanted person was located there. When I got to the place, the soldier told me in poor Arabic to bring him out whether he was alive or dead.

I saw a man who was wounded in the head and leg. I told him about the soldiers' demand. He refused to leave, and I saw that he had a grenade in his hand. I was frightened. I went back to the soldiers who were behind the house. The soldier who was in the tank opposite the house ordered me to go back to the wounded man, but I continued to walk toward the soldiers. One of the soldiers asked, "Why didn't you bring him?" I replied, "He has a grenade in his hand, and I am afraid I'll die." The soldier ordered me to go back. I explained to him that I had diabetes and can't stand the sight of blood. My wife said that I was liable to faint if I saw blood. The soldier told her to shut up and threatened to send her and my mother [to do it]. Then the soldier ordered Ahmad Abu 'Amra to go with me to bring out the wounded man. The soldier ordered us to jump on the roofs of the houses behind my house and not to walk the same way as before. I jumped onto the fence of the house adjacent to mine and almost fell. Ahmad also jumped. The soldiers on the other side fired over our heads.

I got to the barbed wire on top of a stone fence, but couldn't get over it because I am heavy. Ahmad managed to jump over; the soldiers forced me to go around the fence. Ahmad reached

the wounded man, spoke with him, and told him about the soldiers' demand. The man didn't manage to reply. He had lost a lot of blood. Ahmad told the soldiers opposite the house that the guy was dead and was not answering us. The soldier ordered us to bring him out alive or dead. Ahmad responded that we couldn't do that because he has a grenade in his hand. The firing of shots over our heads continued. The soldier ordered Ahmad to take the coop off the water container behind which the guy was lying. Ahmad couldn't pick it up, and he pushed it over. At that stage, I was standing on a rock behind the fence that separates the two houses. I was about a meter and a half from them, and I could see and hear what was happening. The soldier ordered Ahmad to move the water container. He replied that he couldn't because it was my house, and not his, and he pointed at me. The soldier ordered me to move the container. I jumped onto the roof and tried to move the container, but couldn't. The soldier ordered me to move back. He said, "The container is blocking him [the wounded man]. Move away, we want to shoot him." I said to the soldier, "He is not a chicken for you to kill. Take him and treat him. Maybe he is still alive." Ahmad and I left and went back to the street behind the house. I was a mess. I had to lean on Ahmad for support as we were walking.

When we got near the three tanks, the soldiers ordered the civilians there to move away. Then they opened fire at the man. While the shooting went on, we heard explosions as well. I became dizzy, collapsed, and fainted. It was around 6:30 A.M. I later learned that my family had requested an ambulance be sent, but the soldiers refused to call for one. My family told me that a tank came about an hour later. It had an army doctor, who summoned a Palestinian ambulance. I was taken to al-Aqsa Hospital, where I stayed for two days. When I got back home, I found my family in a terrible state.

El Far'a refugee camp, Tubas District, 2 September 2002

At about 2:00 A.M., soldiers went to Husam Subuh's house and ordered him to leave quickly. They told him to walk in front of them toward houses that were fifteen meters from his house. When they reached the house of Tawfiq Zaqi, the commander ordered him to go to the house and call out to the family members to go outside. Subuh did as ordered. When the people came out, the soldiers told Zaqi to go home. The soldiers then went to the house of the Abu Wadi family. This time, they ordered Tawfiq Zaki to walk in front of them. At a distance of twenty meters from the house, the soldiers stopped and ordered him to continue forward, knock on the door, and order the occupants to come outside. When the occupants came out, the soldiers let Zaki go home.

*Testimony of Husam Salim Ahmad Subuh, 27, married, laborer, resident of el Far'a refugee camp, Tubas District*⁹

On Monday, 2 September 2002, at around 2 A.M., a group of soldiers arrived at my house, in el Far'a refugee camp. The soldiers knocked on the door of my house while I was watching television. I looked out the window and saw a large group of Israeli soldiers. I told my wife that it was the army and told her to change out of her nightgown. I was slow in opening the door and the soldiers began to shout and bang on the door. I opened the door and one of the soldiers ordered me to step out. I told him that my wife was getting dressed, but he said: "get out fast." I told the soldiers to wait until I got dressed, but he wouldn't let me. I thought they had come to arrest me. I wanted to go inside and see my children before I left, so I told him that I want to bring a glass of water, but he refused.

The soldiers checked my ID card, and took me with them without entering my house. There were about fifty to sixty Israeli soldiers. They looked frightening and they didn't allow me to speak with them. They made me walk in front of them and directed me towards the houses behind mine, a distance of about 15 meters into the camp. When we arrived Tawfiq Zaqi's (Abu Amir) house, the commander ordered me to go up to the house and tell the family to come out. We were at about a seven-meters from the neighbor's house. I refused to go because the soldiers were aiming their guns at the house, and the situation was very frightening. This was the first time that I was so afraid of the army. They were very serious, more than the previous times I had seen them. I demanded that the commander send a soldier with me to the door of the house. I told him that I wouldn't go alone. I thought one of the soldiers would shoot me if I went alone, especially since I didn't know what was happening inside my neighbor Tawfiq's house. The commander agreed and sent a soldier behind me. When we reached the front door and I knocked on it, the soldier went back quickly and left me standing in the doorway. My neighbor opened the door and I informed him that the soldiers are demanding that he leave the house with his family. After about three minutes, Tawfiq's family came out. The Israeli commander called to me, gave me my ID card back and ordered me to return home quickly.

The next morning I found out that the soldiers had used my neighbor, Tawfiq to lead them to the house of his neighbor, Salah al-Yasidi, who was arrested that night.

⁹ The testimony given to 'Ali Daraghmeah at the witness's home on 3 September 2002.

*Testimony of Tawfiq Zaqi Yusef Salah, born 1960, married, cook, resident of el Far'a refugee camp, Tubas District.*¹⁰

On Monday, 2 September 2002, at around 2:30 A.M., I woke up to the sound of strange voices near my home. I got out of bed, looked through the window and saw Israeli soldiers. They spoke Hebrew, and I was able to understand what they were saying. I asked my wife, Um Amir, to get up, and I informed her that there were Israeli soldiers near our house. A short while later I heard knocking on the front door. When I opened the door, I saw my neighbor, Husam Salim Subuh, in the doorway. The neighbor told me that the Israeli army was surrounding the entire neighborhood and that the soldiers demanded that I leave the house with my family. He added that I have to turn on all the lights inside and open all the doors quickly, because if there is any delay the soldiers would shoot at the house.

I did as I was told and went out with my family. The soldiers demanded that we raise our hands and stand outside near the front door. They demanded my ID card and asked me about the houses near mine. When I pointed to the house of Abu Wadi's family, I saw the soldiers, whose faces were painted, order my neighbor Husam to return home. One of the soldiers pointed his weapon at me from behind, without touching me, and ordered me to walk in front of them towards the house of Abu Wadi'. When we reached the house, which is about twenty meters away, the soldiers demanded that I knock on the door. On the way to Abu Wadi's house, the soldiers shouted at me and warned me not to make any move which they wouldn't like. The soldiers demanded that I knock on the door of the two-story house and order the residents to leave. They demanded that I tell the residents to open all the doors and windows and to turn on all the lights in the house. There were more than forty soldiers and they were very frightening. I was afraid to speak with them.

I knocked on the door of Abu Wadi's house, and a girl, 20, opened the door. I told her that the army was surrounding the neighborhood and demanded that everyone, without exception, step outside. Then, Abu Wadi's son, Saleh, 30, came out, and I told him to open all the windows and doors and to leave the house well lit. About three minutes later everyone went outside, including the children that had been asleep. One of the soldiers returned my ID card to me. He told me to return home and said my mission had ended. About five minutes after the army's withdrawal I was told that the soldiers had arrested Abu Wadi's son, Saleh Ahmad al-Yasidi, 25.

¹⁰ The testimony given to 'Ali Daraghmeah at the witness's home on 3 September, 2002.

Al-Aqabah, Tubas District, 2 September 2002

Around 2:00 A.M., soldiers entered al-Aqabah and surrounded several houses. The soldiers called out to Muhammad Abu 'Arara to come out of his house. Then the soldiers threw stones at two houses and ordered the occupants to leave the house. The soldiers pounded on the door of the house of Mahmud Abu 'Arara, 69. When he opened the door, the soldiers ordered him to take off his clothes. The commander demanded that he go to Muhammad Abu 'Arara's house and order him to come outside. Mahmud 'Arara, accompanied by three soldiers, knocked on the door, which was opened immediately. 'Arara told his neighbor that the army wanted him to leave his house. The neighbor went outside and walked over to the soldiers, who ordered him to strip down to the waist and go over to their commander. They sent Mahmud Abu 'Arara to bring Muhammad's clothes. After he brought the clothes, they sent him home.

Testimony of Mahmud Narmi Hamed Abu 'Arara, 69, married with ten children, farmer, resident of al-Aqabah, Tubas District¹¹

On Monday, 2 September 2002, I was sleeping on the roof of my house, which is in the center of al-Aqabah. At around 2:00 A.M., I woke up to the sound of cars in the neighborhood. I looked out from the roof of the house. I saw dozens of Israeli soldiers surrounding the neighborhood, and I heard them calling to my neighbor, Muhammad Mustafa Narmi Abu 'Arara, to leave his house. Afterwards, the soldiers called to me, using loudspeakers, and threw stones at my house and at Muhammad's house. The front windows broke.

Afterwards, the soldiers began to bang on the door of my house. I was very frightened because they were throwing stones at the door. I decided to open the door carefully. When I opened the door, the soldiers demanded that I take off my clothes, even though I am an old man. I took my clothes off, and the soldiers ordered me to turn around. They let me get dressed and demanded that I approach the commander, who was waiting at a distance of about forty meters. Three soldiers accompanied me.

¹¹ The testimony was given to 'Ali Daraghme at the witness's home on 5 September 2002.

The commander ordered me to go to Muhammad Abu 'Arara's, and tell him to come of his house immediately. The commander warned me that if Muhammad didn't come out, the soldiers would force their way in and kill him. I went towards Muhammad's house, accompanied by three soldiers. I knocked on the door of the house and Muhammad, 22, stepped out immediately. I told him that the army was surrounding the area and the soldiers demanded that he come out of his house, otherwise they would force their way in. Muhammad went toward them and the soldiers that had come with me demanded he take off his shirt and approach the location where the commander was waiting. Afterwards, one of the soldiers demanded that I bring Muhammad's clothes.

The soldiers tied Muhammad's hands and took him with them. They ordered me to return home and when they saw me peering from behind the door, they shouted at me. The soldiers did not leave the area until I shut the door.

Kafr Qud, Jenin District 2 September 2002

Close to 4:00 A.M., Shaf'a Ghanem heard knocking on the door of his house. When he opened it, his neighbor, Ibrahim Hassan, was standing there. Hassan told him that soldiers demanded that he come outside. Ghanem went over to the soldiers. The soldiers questioned him about his nephew Mahmud. The commander ordered Ghanem to lead them to his nephew's house. On the way, three soldiers aimed their weapons at him. He knocked on the door and told his mother-in-law that soldiers wanted Mahmud to come outside. The soldiers then told Ghanem to sit alongside other neighbors who had been removed from their houses. Thirty minutes later, the soldiers sent him home.

Testimony of Shaf'a Mahmud Shaf'a Ghanem, 41, married, teacher, resident of Kafr Qud, Jenin District¹²

I am married and have six children: Alaa, 14, Sara and Ghanem, 12, Saja, 7, Sanaa, and Sabaa, 2.. We live near the western water-well in Kafr Qud. On Monday, 2 September 2002, at around 2:00 A.M., I woke up to the sound of noises near the house. I was sure it was the sound of tanks and other smaller vehicles. The rest of the family was asleep. I looked out the window and saw lots of soldiers, military vehicles and tanks.

At around 4:00 in the morning I heard my neighbor, Ibrahim a-Sheikh Hassan, calling me. He was knocking on my door. I asked him what he wanted and he told me the army wants me. I opened the door of my house and saw three soldiers pointing their weapons at me. They were about three to four meters south of the house's door. It was a scary sight. One of the soldiers, probably the commander, demanded my ID. I told him it was inside. I tried to go inside the house to bring it, but the soldier said I should ask someone inside the house to get it for me. I asked my wife, whom I had woken up earlier to get my ID and the commander took it from me. He started asking me questions as I was standing at the front of the house. He asked me about my neighbors and then asked for the location of my nephew, Mahmud Ghanem's house. I pointed at the house and the commander asked about my nephews' occupation. I told him he was a land surveyor and works in Jenin. The commander ordered me to go with the soldiers to my nephew Mahmud's house. Three or four soldiers walked behind me while pointing their rifles at me. I walked about fifty meters until we reached Mahmud's house. On the way, I saw a large group of soldiers - I think there were more than fifty. They were scattered underneath some trees and around the corners of the houses near Mahmud's house. The soldiers were on alert and had their fingers on the triggers of their weapons.

I knocked on Mahmud's door. My mother-in-law, who was staying at his house that night, answered me. I told her to ask Mahmud to get dressed and come out because the army wants him. The soldiers stood in front of the house and ordered me to sit next to a group of neighbors, whom the soldiers had taken out of their houses at an earlier stage, and I sat where they pointed. The neighbors who were there were 'Izz a-Din Muhammad Ghanem, 38, his wife, Fayza Ghaleb Ghanem and their children; a women of about 70; Muhammad Ibrahim Ghanem, 65, and his wife. Muhammad Ghanem is handicapped and is in a wheelchair. The soldiers ordered another young man, who was on top of the roof of his house, to sit with us as well.

The soldiers detained me for about a half an hour. Then, the commander who had taken away my ID. gave it back to me and erased my name off the paper he had in his hand. After the tanks, military vehicles and soldiers who were in the area had retreated, I returned to my house.

¹² The testimony was given to 'Atef Abu a-Rob in Kafr Qud on 3 September 2002

Jenin, 9 November 2002

Khaled Kamil woke up around 4:00 A.M. and heard soldiers' voices near his house. Five minutes later, he heard an enormous explosion. Immediately afterwards, soldiers knocked on the door of his house, entered, and searched the premises. The commander ordered Kamil to go outside, where he questioned him about his neighbors. The soldiers continued to question him, and then made him go to the neighbor's house. They threatened that, if he did not do as told, they would arrest him and destroy his house. Then the soldiers took Kamil outside and blew up one of the walls of the house. After that, the soldiers forced him to go back into the house and beat him. Then they demanded that he go through the hole in the wall into an alcove that had been revealed on the other side. They ordered him to call out to Iyad Sawalha, who was hiding in the alcove, and tell him to give himself up. One of the soldiers stood next to Kamil, with his weapon aimed at him. Kamil heard the soldiers question Iyad's wife about weapons and explosives in his possession. The soldiers took Kamil out of the house and moved him to a house nearby. At the conclusion of the operation, in which Sawalha was killed, Kamil was taken to the prison in Sallem. He was released the following day.

Testimony of Khaled Ibrahim Muhammad Kamil, 39, married with three children, municipal employee, resident of a-Sibat neighborhood, Jenin¹³

On Saturday, 11 November 2002, at around 4:00 A.M., my wife, Suha, woke me up. She said the army was in the alley. I got out of bed and asked her to prepare tea and a meal, as usual. I kept silent and listened. I wanted to know if the army was really there. I heard people speaking Hebrew in low voices. I also heard footsteps. Five minutes later, there was a large explosion outside. Some of the shrapnel flew into the house through the kitchen window. The teapot and the tray of food fell to the ground. I started shouting "Kids! Kids!" and turned on the light. The soldiers began banging on the door and yelling for me to open up. They were screaming and swearing. I opened the door and saw more than twenty soldiers. About fifteen of them came running into the house. They were yelling and pointing their guns at us. They shouted: "Get inside, get inside the house!" They had us go into the bedroom. My son was sleeping on the floor. I took him quickly and gave him to his mother.

The soldiers spread out and searched the house. They were wild. They searched everything, the closets, the bed. The search in the bedroom lasted about five minutes. At the same time,

¹³ The testimony was given to 'Atef Abu a-Rob at the witness's home and at Iyad Sawalha's home on 11 November 2002.

other soldiers were searching the kitchen, guestroom and bathroom. When the search ended, the soldiers demanded that the children and I stay inside. Some of them left the house and some stayed inside. A minute or two later, the commander and a few of the soldiers came back and demanded that I go with them. They took me outside and led me to the middle of the alley that leads to the house. The commander asked me if I knew why we were there. I said I didn't. He asked again and I said I didn't know. A little later, he asked about the man who was living in the house opposite mine. I said I knew the house had been rented to a man and his wife. He told me to describe the man and the woman and I said they were like everyone else. The commander said: "You know who lives here. You're a liar. You know who lives here. Do you want your house destroyed?"

At around 4:30 A.M. after a fifteen minute long argument, the commander grabbed me by the arm and another soldier pushed me. They forced me to go into the neighbor's house. One of the soldiers said: "Sit here." He ordered me to turn my face toward the wall. The commander came back and said: "You say a man and his wife live here. I see nothing but a computer. The house is empty." He asked me again about the residents. He asked what the woman looked like, whether she was tall or short and what clothes she wears. I told him she dresses like my wife and is about the same height. He said angrily: "You're a liar," and asked about her height again. I said she was a little taller than I was. The commander swore at me, threatened to destroy my home and said: "Do you want to have your house destroyed? Do you want to live in a tent? We'll demolish your house."

The commander took out a newspaper photo. He asked: "Who's the man in the picture?" I said I didn't know. The man in the picture had a beard. I said I had never seen that man before. The commander and the soldiers threatened me again. They swore at me the whole time. The commander then demanded I sit in the corner of a room in the neighbor's house. There were seven or eight soldiers in the room. They were searching it and looking through papers. From time to time, they threatened they would arrest me and destroy my home.

Later on, the commander arrived and pointed at a wall, part of which was covered in ceramic tiles. There was a sink there too. He asked what it was and I said it was a sink. The soldiers took me out of the house and I heard an explosion. Then they took me back inside and I saw that the wall was actually a door that led to a dark alcove. The commander who was standing looking at the alcove asked me what it was. I said I didn't know. A soldier grabbed my arm and brought me closer to the wall so that I could see what was behind it. The commander asked what I saw. I said I could see some mattresses and bed sheets. The soldiers beat me and the commander said I was lying. He said again: "Do you want to have your house destroyed?"

The commander pulled me back and said: “We want you to go inside, call Iyad and tell him that he’s better off coming out, because if he doesn’t, we’ll destroy his house and the houses nearby.” I walked two or three meters past the wall and asked the commander what to say and who to call. I spoke out loud deliberately, because I wanted to make sure that whoever was in the alcove would not shoot me. I walked in and stood at the opening of the alcove. It was dark and I couldn’t see inside. One of the soldiers was standing by the ruined wall pointing his gun at me. I called out to Iyad. I asked him to come out and said: “Iyad, they are going to destroy your house. Turn yourself in.” I couldn’t see anyone and no one answered. I told the soldier no one was answering. He told me to keep calling Iyad.

I then heard the voice of a woman behind me saying: “Iyad come out. Turn yourself in.” She was calling him and crying. The soldiers ordered me and the woman to keep calling Iyad, and they started shouting and swearing. I heard them telling her to call her husband. They also told her to take off her head covering and her dress. She kept crying and yelled louder: “Iyad come out, otherwise they’ll hurt me. Don’t let them do anything to me. Don’t let them kill you.” The woman called her husband as I was standing at the opening of the alcove. I went back. When the commander saw me, he demanded I approach him. He took me to the room where I had been sitting before. The woman was there. She was wearing green pants and a green shirt. She didn’t have a dress on and her head wasn’t covered. The commander asked her about weapons and explosives. She said there were none. As far as I could tell, he was asking her about a gun and hand grenades. Later, one of the soldiers came and handcuffed me. The commander and I argued. He said I had seen what was inside the alcove and I said I hadn’t. He said: “You saw Iyad, but he pointed his gun at you. You’re lying.”

Three soldiers dragged me outside Iyad’s house. They took me to another neighbor’s house, Abu Samir a-Suqqi. About a minute later, the soldiers brought the woman there too. When I went into Abu Samir a-Suqqi’s house, which is near Iyad’s, I saw another neighbor, Muhamad a-Sukya. He was sitting on the floor. His hands were tied and his eyes were covered. One of the soldiers covered my eyes and told me to sit on the floor. They made Iyad’s wife sit next to me. I could recognize it was her by the voice and her crying. It was about 5:00 A.M.

When I was in Abu Samir’s house, I could hear bulldozers, explosions, and vehicles and soldiers moving about in the neighborhood. Soldiers stayed with us in Abu Samir a-Suqqi’s house. Some of them told me: “We’re going to destroy your house. See, the bulldozers are destroying your house. We’ll put you in jail for fifteen years.” I could also hear intense gunfire. A soldier came into the house and told Iyad’s wife that her husband had been killed.

She started screaming and crying. One of the soldiers demanded she go see her husband. He took her outside. She came back two minutes later, crying and yelling. When she came in, one of the soldiers asked her if she had seen her husband. She said she hadn't and she didn't want to.

Conclusions

For an extended period of time, the IDF has been using Palestinians as human shields and ordering them to carry out military tasks that pose a threat to their lives. In implementing this policy, Palestinian civilians have been forced to carry out tasks such as removing suspicious objects from roads, ordering people to leave their homes to be arrested by the IDF, and standing in front of soldiers who were firing from behind them.. These tasks were forced upon civilians who were chosen at random and could not refuse the orders given to them by armed soldiers.

Israel agreed to change its policy on the use of human shields only after a petition was filed in the High Court of Justice. The change in policy was only partial. It took the death of a Palestinian civilian and an additional petition to the High Court for the state to prohibit any use of Palestinian civilians as human shields, including the “neighbor procedure.” As this report shows, the IDF violated the injunction issued by the Court.

The position of the state and the IDF Spokesperson, as presented above, that the “neighbor procedure” is legal because it does not come within the rubric of human shields, is inexplicable. The main reason that soldiers do not themselves knock on the door of the house of a person they want to arrest is because they fear that they will be injured. The assumption that a Palestinian chosen to carry out the task instead of the soldiers would not get hurt is entirely unfounded. This view was completely disproved following the death of Nidal Abu Mukhsan; yet, the IDF did not change its policy.

Furthermore, the “neighbor procedure” would be illegal even if the state’s claim that it does not come within the rubric of human shield were true. One of the basic principals of international law is that civilians are to be distanced from combat zones and protected from dangers stemming from military actions.¹⁴ Forcing Palestinians to endanger their lives is a clear violation of this principal, as well as an infringement of the right to life, dignity, bodily integrity, and liberty. In addition, the “neighbor procedure” would be illegal even if the Palestinians who were forced to take part in it were not exposed to any danger, simply

¹⁴ See, for example, articles 51-58 of the First Additional Protocol to the Geneva Conventions of 12 August 1949, of 1977.

because of the explicit prohibition against forcing civilians to take part in any kind of military activity.¹⁵

The number of cases in which soldiers used Palestinians as human shields has indeed dropped considerably since the petition was filed. However, their continuing occurrence raises grave doubt about the willingness and intention of the army to comply with the temporary injunction issued by the High Court and ensure that all soldiers in the field cease to use this illegal practice. The IDF's indifferent attitude toward the violation of the injunction issued by the High Court raises doubts as to the degree to which the army considers itself subject to the law.

Proof of this attitude lies, in part, in the IDF's practice of doing everything in its power to conceal the cases in which the High Court injunction was violated. B'Tselem has brought four of the cases described in this report to the IDF's attention, but has not received any response. As far as B'Tselem knows, no measures have been taken against those involved in these incidents. In early November, the media reported that soldiers had been convicted of using Palestinians as human shields.¹⁶ However, the IDF Spokesperson refused to give B'Tselem information regarding the incident and the offenses for which the soldiers were convicted.

The protection of soldiers is a legitimate military consideration, but it cannot be the sole consideration. Clearly, the civilian population does not have the duty to protect soldiers. Furthermore, the protection of soldiers does not nullify the IDF's duty to protect civilians, and surely does not allow acts that knowingly endanger civilian lives.

B'Tselem urges the IDF to order its soldiers not to use civilians for any purpose whatsoever. The order given to soldiers must be unambiguous. It must state that under no circumstances is it permissible to demand that civilians cooperate with the security forces and perform military assignments. B'Tselem urges the IDF to immediately investigate all the cases presented in this report and other cases that are brought to its attention, and to initiate proceedings against any soldier involved in this illegal practice.

¹⁵ Articles 28 and 51 of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, of 1949.

¹⁶ *Ha'aretz*, 6 November 2002.

Response of the IDF Spokesperson

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2002 November 14



To:
B'Tselem
Att. Yael stein

Re: The IDF Response to Recent B'Tselem Report

The B'tselem report deals with an issue pending the decision of the Israeli Supreme Court, following an appeal by several human rights organizations.

In announcements submitted to the High Court of Justice following the appeal, it was made clear that IDF soldiers are prohibited from using Palestinian residents as "human shields". It is also forbidden to hold them as hostages in order to exert pressure on others, or to use them in a manner that endangers their lives. So as to dispel any misunderstandings, unequivocal instructions have been issued on this subject among IDF units.

Moreover, following information we received from various quarters, amongst them human rights organizations, some 30 Military Police investigations have begun regarding these cases, in which it has been claimed that IDF soldiers allegedly violated the said prohibitions.

Regarding the cases mentioned in the B'tselem report- these are still at the examination and debriefing stages. The findings of these examinations will be forwarded to the authorized personnel, to be reviewed and to decide whether any necessary measures should be taken.

The IDF reemphasizes that IDF soldiers are strictly prohibited from employing civilians as hostages, "human shields", or in any way that would endanger their lives. The IDF is fully aware of the importance of this issue, and any claim of prohibited violations is examined seriously and with necessary thoroughness.

Sincerely Yours,



Cap.
Public

Anrieta

Levi
Relations