

**Adalah Update Report on the Israeli Military's Routine Use of
Palestinian Civilians, including Minors, as Human Shields
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By Adalah Attorney Rana Abed Asali

In October 2005, three years after Adalah together with six other Palestinian and Israeli human rights organization petitioned the Israeli Supreme Court against the Israeli military's use of Palestinian civilians as human shields, the court ruled that this practice is strictly prohibited.¹ The court accepted Adalah's arguments, and stated *inter alia*, that international humanitarian law (IHL) bans such practices, and thus in no instance may civilians be compelled to cooperate with the military by performing military tasks that endanger their life and human dignity.

Despite the Supreme Court's ruling, this brief report will reveal that the Israeli military is consistently violating these prohibitions by continuing its use of Palestinian citizens as human shields. In fact, these practices have become systematic: routinely, the soldiers force protected civilians to perform military tasks for them. Despite Adalah's numerous letters to the Military Advocate General (MAG), which contain detailed information on the victims who were used as such, there has not been any independent investigation or prosecution against those responsible for committing such crimes. This inaction shows a culture of total impunity in the case of the military's use of Palestinian civilians as human shields.

Shortly after the court's judgment, in March 2006, a minor, aged 15 from Anabta in the West Bank was placed by soldiers on the hood of their jeep and tied by his wrists to the front metal windscreen to discourage Palestinian demonstrators from throwing stones at the jeeps.

In February 2007, again a minor, aged 15 from Nablus was used as a human shield. Israeli soldiers removed him from his home and compelled him by gunpoint to walk in front of them. He was forced to enter the houses of relatives and neighbors, to open all of the doors for them, and later was asked to open all the closet and drawers and empty them:

"The soldiers took me out of the room. One soldier told me to go to my house. He forced me to go first, in front of the soldiers. Two soldiers walked behind me and aimed their rifles at me. They were about fifty centimeters behind me. On the way, he asked me about my uncle's house. He told me to tell them to leave the house. I went to my uncle's house, which was around twenty meters from our house. I knocked on the door. My cousin, Samah, opened the door. I asked him to tell everybody to come outside. Everybody left the house. The soldier searched Samah and Muhammad. Then they took us to the neighbors' house, where we had been before.

Fifteen minutes later, one of the soldiers came and took me outside. I didn't know what he wanted or where they wanted me to go. I stood there, and then one of the soldiers pushed me and said, "Go home." I went into the house, and six soldiers came in after me. They aimed their weapons at me. One of them pushed me so that I

¹ H.C. 3799/02, *Adalah, et. al. v. Yitzhak Eitan, Commander of the Israeli Army in the West Bank, et. al.* (decision delivered on 6 October 2005).

would go into the house first. I went in first, and then the soldiers entered. One of them pushed me to a corner of the room, and then fired into the house. They fired 5-6 shots inside the house. They told me to go into the rooms and then they came in behind me. They ordered me to open the cabinets and take out what was there. I asked them to let me go back to my family, but the soldier told me, "Ssssh.... You'll stay here." Then the soldiers took me to my Uncle Abu Samah's house, to open the windows. The soldiers did not enter the house with me. Later, they took me to the neighbors' house and I joined my family there. I was alone with the soldiers for about half an hour."

Another case involved a child, aged 11, from Nablus. Here the soldiers threatened a young girl by telling her that she would be arrested for a long time if she did not give them information about young men shooting from houses. Out of fear, the girl told them that she knows of an abandoned house nearby. They asked her to show them the house, forced her to walk in front of them, and enter the house first and each room in it in order to check it before they enter themselves:

"... In the meantime, about twenty soldiers had come into the yard. The soldier said, "We don't know the house, come and show it to us." I told him, "What do you want from me. I told you about the house." He said, "Don't be scared, we're with you." He motioned me to come outside. I went down the steps leading to the neighborhood. The soldiers walked behind me. The soldier had his weapon aimed in front of him. He said to me, "Slowly, slowly, don't be scared, we're with you." After walking about fifty meters, we got to steps at the entrance to the abandoned house. The soldier asked me, "What is this?" I told him that I don't know. "This is the house," I said, "I don't know any other house. Let me go back home." Three soldiers took me home. This time, the soldiers walked in front and I was behind them. The soldier did not take me back to the room where my family was. We stopped in a room where twelve soldiers were eating. One of the soldiers gave me a piece of a biscuit.

A few minutes later, the soldier who spoke Arabic returned. He motioned me to come to him. He was standing next to the door of the room. I went over to him and said, "What do you want. I told you about the house. What do you want?" "Don't be scared, we're with you," he said. He ordered me to walk toward the house. Three soldiers walked behind me. At the house, there were lots of soldiers. The soldier ordered me to go inside. The soldiers followed me into the house. The house was dark, and the soldiers lit it up with their flashlights. There were locked rooms and a kitchen. The soldier asked me what room we were in, and I told him it was a kitchen. He asked me about the stairs leading to the roof. I showed them to him, and the soldiers went onto the roof and then came back. After that, he said, "Thank you, but don't tell anybody."

More individuals reported on the military's illegal practices in 2007. In March 2007 soldiers forced shopkeepers out of their shops in Saer in the West Bank, used them as human shields, tortured them and afterwards arrested them.

In March 2007, Adalah sent two letters to the Deputy State Attorney, Shai Nitzan, following an Israeli military operation launched in Nablus in February 2007.² Adalah demanded an investigation into the use of Palestinians, including minors as human shields by Israeli soldiers and commanders in violation of the Supreme Court's decision, and the criminal indictment of those responsible. Adalah annexed the affidavits of the two children stated above in its letter.

The Military Advocate General responded in March 2007, stating his intention to open an investigation into the charges and to examine the arguments raised by Adalah.³ Yet Adalah received no further information or update.

In May 2007, a Palestinian youth from Jenin was injured in crossfire while he was used by Israeli soldiers as a human shield.

On 18 October 2007, according to media reports, the Israeli army's Chief of Staff Gabi Ashkenazi chastised Brigadier General Yair Golan, the outgoing commander of the Israeli military forces in the West Bank, and delayed his promotion for at least nine months because under his command, Israeli soldiers used Palestinians as human shields.

On 25 October 2007, Adalah sent an urgent letter to the Deputy State Attorney, Shai Nitzan and the Military Advocate General Avihai Mandelblit demanding that they make public the measures and punishments used against soldiers who violate the Supreme Court's ruling that banned the Israeli army's use of Palestinian civilians as human shields.⁴ In the letter Adalah emphasized that to date the steps taken by the Israeli army Chief of Staff against law violators were completely inadequate and insufficient. Further, Adalah argued that the Israeli army is obliged to publish clear, written directives to all army units to clarify the Supreme Court's decision so that soldiers know what practices are permitted and what practices are prohibited. Again, Adalah demanded information regarding the progress of any aforementioned investigation into the use of Palestinians as human shields in Nablus.

During this period, and despite claims by the JAG that such practices are prohibited and soldiers who used them were an exception, the Israeli military continued using civilians as human shields as a routine measure in all operations. The use of this practice was especially common during the latest military attack on the Gaza Strip called "Cast Lead".

The Israeli army used Palestinians civilians for military purposes in the recent attack on Gaza (27 December 2008 – 18 January 2009), endangering their lives, in order to break into houses and move freely from one place to another, thus ignoring the court's ruling and their legal obligations to take all necessary precautions to ensure the protection of civilians during combat and to refrain from using civilians for military needs. These civilians were selected and then forced to walk in front of the soldiers to protect them and perform other deeds that endangered them and put their lives at risk. The soldiers forced these individuals to enter homes before they did, fearing booby traps or the existence of combatants inside. They also compelled them to take pictures of the homes' interiors. After the civilians performed these

² See Adalah's letters to Deputy Attorney General Shai Nitzan dated 4 March 2007 and 11 March 2007, at Adalah's website, Special Report: Human Shields, at <http://www.adalah.org/eng/humanshields.php>.

³ See letter to the MAG Assistant, Timor Blan, from Adalah dated 15 March 2007 (Hebrew) on file with Adalah and a summary available on Adalah's website at: <http://www.adalah.org/eng/humanshields.php>.

⁴ See letter to the MAG and Deputy AG, from Adalah dated 25 October 2007, on Adalah's website at: <http://www.adalah.org/eng/humanshields.php>.

tasks and informed the soldiers that the homes were free of any combatants, the soldiers led them into the homes again and forced them to break walls and enter neighbors' homes in this manner. They further asked them to open doors and empty the closets in the different houses.

In testimonies provided to Adalah by Al Mezan Center for Human Rights in Gaza, Mr. Majd Abed Rabbo and Mr. Abbas Halawa illustrate how they and others were used as human shields in the operation. Civilians were forced to accompany the soldiers in their operations during which they had to enter houses to ensure that all Palestinian fighters were dead or even send messages to the fighters from the Israeli army, and enter certain places before the soldiers in order to ensure that the area was clear from fighters and not booby trapped.

Further, three brothers aged 16, 17 and 19 from Gaza described how they were taken by Israeli soldiers at gunpoint from their home. They were made to kneel in front of tanks in order to deter Hamas fighters from firing; they were also sent by Israeli soldiers into houses to clear them before the entry of the soldiers.

Similar practices happened with Mr. Raji Abed Rabbo, aged 23; Ms. Maisa Esamouni, aged 19; Mr. Abd Elkareem Saleh, aged 43 and his 14 year-old son; and Mr. Samir Elattar aged 36 and his 10 year-old son.

On 8 April 2009, Adalah in cooperation with Al-Mezan, sent a letter to the Israeli Defense Minister Ehud Barak and the Attorney General Menachem Mazuz demanding that the AG immediately open a criminal investigation followed by a prompt prosecution of military leaders who authorized soldiers to use Palestinian civilians as human shields during the recent offensive on Gaza. Six specific affidavits were attached to the letter from the victims noted above.⁵

The only response Adalah received was that the letter was transmitted to the JAG for further investigation.⁶ Thus, on 18 June 2009, Adalah sent an additional letter to the JAG which included another two testimonies of different civilians who were used as human shields during the military attacks on Adalah.⁷ Here again Adalah demanded an independent investigation and the criminal indictment of those responsible. Adalah further brought to the military's attention that these practices were systematic and used routinely by soldiers. Adalah further informed that military that seeing no progress, the organization would shortly submit a motion for contempt of court.

On 22 June 2009, Adalah received a letter from the JAG again stating that investigations are underway into the cases and that they will update the organization accordingly.

On 6 July 2009, Adalah received another testimony of a father and son who were used as human shields; a letter with this information was also sent to the JAG.⁸

On the same day the Military Police contacted Adalah via telephone. They informed the organization that they wanted to take affidavits from three victims mentioned in our letters at the Erez checkpoint on 13 July 2009.

⁵ See in Adalah's website at: http://www.adalah.org/eng/pressreleases/pr.php?file=09_04_23_1.

⁶ Letter from assistant to Attorney General, Raz Nizri, dated 18.06.2009 (Hebrew) on file with Adalah.

⁷ Letter to Attorney General and Defense Minister from Adalah dated 18 June 2009 (Hebrew) on file with Adalah.

⁸ Letter to the MAG and Attorney General from Adalah dated 6 July 2009 (Hebrew) on file with Adalah.

On 13 July 2009, the three victims traveled to Erez and gave their testimonies. To date, the military has not sent a substantial response to Adalah concerning the progress of the investigation.

Based on all of this information, it is clear that the military has failed to respect the Supreme Court's decision delivered in 2005. Using civilians as human shields is prohibited under the Fourth Geneva Convention (articles 27-28) and is a war crime under international law: The Rome Statute of the International Criminal Court (ICC) regards grave breaches of the Fourth Geneva Convention as war crimes.⁹ Further, the International Criminal Tribunal for the Former Yugoslavia (ICTY), which was established by the UN to prosecute the war crimes that took place in the republics of the former Yugoslavia, regards the use of civilians as hostages or during military operations as war crimes.¹⁰ The JAG must thoroughly investigate each of the allegations noted above, and criminally indict those found to be responsible. The JAG must also make public the measures and punishments used against soldiers who violate these prohibitions of law.

⁹ See: Article 8 of the Rome Statute.

¹⁰ See: Article 2(e), 2(h), Article 7 of the ICTY Statute.