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16 June 2010: Following B'Tselem's action, prosecution of soldier appears likely on charges of killing Majda and Riyeh Abu Hajaj while they carried white flags during Operation Cast Lead

The Ynet website reported today that a Givati Brigade soldier is to be summoned for a hearing prior to the filing of an indictment against him involving the killing of Riyeh Abu Hajaj, 64, and Majda Abu Hajaj, 37, mother and daughter. The incident was first made public by B'Tselem.

Riyeh and Majda Abu Hajaj were shot after they obeyed soldiers' calls to leave their house and were walking in a group of civilians who were carrying white flags. B'Tselem does not know if the Judge Advocate General's Office intends to take measures against any of the commanders involved in the incident.

B'Tselem's investigation found that, early in the morning of 4 January 2009, a shell was fired at the building in which the Abu Hajaj family lived, in the Juhor a-Dik neighborhood in Gaza City. At the time, about fifteen members of the extended family were in the building. The only person injured was Manar Abu Hajaj, 13, who suffered a slight injury to her hand. Immediately afterwards, the occupants, women and children among them, left the building and stood in front of the building so the soldiers could see they were civilians. About fifteen minutes later, the family went to the house of a neighbor, Muhammad a-Safi, where they remained until they were informed, around noon, that the army ordered the residents to leave their houses and walk toward the center of the city.

The Abu Hajaj and a-Safdi families, a total of about 30 persons, made a few white flags from sheets and left the house. Ahmad a-Safdi, 25, and Majda Abu Hajaj, each holding white pieces of material in their hands, walked at the head of the group. When they saw tanks about 150 meters from them, the two of them waved the flags, and the children in the group sat on the ground. Suddenly, and without warning, shots were fired at the residents, killing Majda Abu Hajaj on the spot and seriously wounding her mother, Riyeh Abu Hajaj. In her testimony to B'Tselem, Farhaneh Abu Hajaj, 32, said:

Suddenly, they opened fire at us and we began to run eastward. My mother-in-law, Riyeh, who was 64 years old, was at the back because she couldn't run. While I was running, I saw Majda on the ground. I thought she was lying there to avoid being hit by the shots. I told her, "Get up! Get up!", but she didn't move. I ultimately realized that she had been hit by the gunfire.

The group ran to tin huts situated east of the Abu Hajaj family's house, two of them carrying the wounded Riyeh Abu Hajaj. She died a few minutes later. Despite more gunfire at them, the group managed to get back to a-Safdi's house, where they hid.

The family had to leave the two women's bodies in the area. It was not until 19 January that their bodies, by then partially decomposed, were taken to hospital. Before then, the rescue teams that had been summoned by the family were unable to enter the area. On 6 January 2009, two days after the incident, Yusef Abu Hajaj told B'Tselem:

We immediately called the Red Crescent and the Red Cross and asked them to remove the bodies, but the shelling made it impossible for them to get there. The next day, we realized that we had to leave the area, and we fled. Now, I am living in a school in Nuseirat. The bodies of my mother and sister are still outside. We don't know when we can move them.

B'Tselem wrote to the Judge Advocate General on 14 May 2009, demanding a Military Police Investigation Unit (MPIU) investigation into the incident. B'Tselem attached photos of the site of the incident, including its coordinates, and also demanded an investigation into the responsibility of the command echelon and of the orders that were given to the soldiers.

In early October 2010, B'Tselem assisted the MPIU in coordinating the taking of testimonies from four witnesses, who gave their testimony on 8 October 2009 at the Coordination and Liaison Office at Erez. In addition, B'Tselem provided the MPIU with medical documents and death certificates along with documents confirming that the house of the family had been destroyed during Operation Cast Lead.

B'Tselem views positively the conclusion of the investigation and the recommendation to prosecute the soldier who fired the shots. However, it is regrettable that it took a year and a half after Operation Cast Lead ended to reach the decision. Some MPIU investigations have not yet been completed and many cases were not even investigated.

Israel refused to investigate questions regarding the policy that was implemented during the operation and settled for a few MPIU investigations of isolated incidents. These investigations do not meet Israel's obligation to investigate breaches of the law, and the investigations it conducted are insufficient. Even if they lead to the filing of indictments against soldiers, only low-ranking soldiers will be prosecuted, while the officials responsible for formulating the policy will not be held accountable for their acts. Also, the investigations are carried out by an entity that is an integral part of the army; therefore, its investigations cannot be deemed independent and impartial.

By acting in this way, Israel avoids its obligation to carry out an independent and credible investigation of the responsibility of officials outside the military and of the command echelon.