

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

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

17 June 2009

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

By mail and fax (03-5694526)

Dear Sir:

Re: Firing of live ammunition at unarmed demonstrators in the West Bank

Ref: Letter of Major Gortler of 15 March 2009

The abovementioned response of Major Yehoshua Gortler reached me only following my additional letter to you, of 8 June 2009. In his letter, Major Gortler states that, following our letter of 26 February 2009, "We directed that the forces again be instructed with respect to the binding Open-Fire Regulations that apply to use of the Ruger rifle." Nevertheless, two weeks ago 'Aqel Srer, a resident of Ni'lin, was killed by a 0.22 inch caliber bullet fired by a border police sniper. In addition, on 13 February, 'Az a-Din al-Jamal, 14, was killed when he and other youths threw stones at the Pharmacy checkpoint in Hebron. A recent investigation by B'Tselem indicates he, too, was killed by a 0.22 bullet.

In the interest of clarification and as an aside, it should be noted that for several months now, the army has not used Ruger rifles, but rather M4 (short-barrel) rifles, which have been adapted to fire 0.22 bullets. Soldiers still use the term "Ruger" to refer to the firing of 0.22 bullets.

Major Gortler wrote that, "The IDF does not consider the Ruger rifle a means to disperse demonstrators or persons engaged in public disturbances, and that the weapon is not a substitute

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for means of dealing with public disturbances (such as stun grenades, rubber bullets, and so forth).” However, these comments do not reflect the reality in the field.

First, this approach is not given expression even in official army announcements. For example, the IDF Spokesperson stated on 5 June 2009 that, “The force operating at the site was stoned by a group of Palestinians, some of them masked. One of the combatants felt he was in a life-threatening situation and fired at their legs with a Ruger rifle, which is a means to disperse demonstrators that fires ammunition similar to live ammunition but at low intensity” (*ynet*, 6 June 2009).

Second, observations conducted by B’Tselem at confrontation points in Ni’lin clearly show that security forces have consistently used 0.22 bullets since the end of 2008. Often, soldiers have no weapon intended for firing rubber-coated metal bullets and have only live ammunition: 0.22 or 5.56 inch caliber bullets. This situation is reflected in the number of wounded in demonstrations at Ni’lin: since 0.22 bullets began to be used, at least 28 demonstrators have been injured.

Third, soldiers frequently use 0.22 bullets along with other crowd-dispersal means, such as tear gas and stun grenades. Often, the army posts a sniper on one of the roofs in the village or among a group of soldiers confronting stone throwers. This conduct indicates that soldiers in the field and their commanders view 0.22 bullets as one of the means available to them for dispersing demonstrators.

Fourth, Major Gortler stated that the Open-Fire Regulations are comparable to those relating to firing of “ordinary” live ammunition. This indicates that shooting of 0.22 bullets is permitted when the lives of soldiers or others are threatened. However, analysis of the cases in which 0.22 bullets have been used in the course of demonstrations in Ni’lin clearly demonstrates that, in the vast majority of cases, soldiers were not in life-threatening situations.

To illustrate this, I am attaching a disk containing four video clips documenting the firing of 0.22 bullets, or an attempt to fire them, in Ni’lin, in situations in which soldiers’ lives were not in danger.

Video clip 1, filmed on 27 March 2009, documents a large number of police and soldiers in the center of the village confronting a relatively large number of young persons from the village. The footage shows a sniper with an M4 rifle loaded with an 0.22 cartridge, operating alongside

soldiers who are shooting with other means at the stone throwers, including tear-gas grenades. The soldiers do not appear to be in danger.

Video clip 2, filmed on 15 May 2009, documents a group of border policemen, among them a sniper armed with an M4 rifle loaded with a 0.22 cartridge, lying opposite a group of demonstrators throwing stones at them. The policemen ,who are shooting, give no indication that they feel their lives are under threat. While a sniper is lying in wait for the opportunity to fire, other police officers are firing tear-gas grenades at the demonstrators.

Video clip 3, filmed on 22 May 2009, documents a group demonstrators running along the main street of the village, apparently to get away from a group of policemen on the street. A sniper fires at one of the demonstrators from behind him, hitting him in the leg. Even if stone throwing was involved, firing of live ammunition from behind a demonstrator is especially grave, ostensibly in clear breach of the Open-Fire Regulations.

In summary, B'Tselem's field investigation reveals that the field echelon view 0.22 bullets as a means to disperse demonstrators. As B'Tselem predicted, this reality has inevitably led to increased use of this ammunition, which has already killed two persons and wounded dozens of other persons.

Considering the above, B'Tselem demands, yet again, that an unequivocal order be given to security forces in the field that it is forbidden to use live ammunition, including 0.22 bullets, against unarmed demonstrators. This instruction must be given immediately, before more Palestinians are injured by this ammunition.

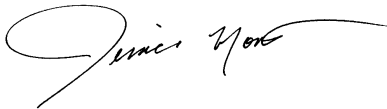
I also wish to relate to the second part of Major Gortler's letter, in which he denies B'Tselem's claim that IDF soldiers are almost never held accountable for their illegal use of weapons. I must disagree with the major's unwavering statement.

In recent years, B'Tselem has submitted to the Judge Advocate General's Office hundreds of cases in which soldiers fired at Palestinians, ostensibly illegally, killing or injuring them. In very few cases, a Military Police investigation was opened. The dispute between us over the need to open Military Police investigations in every case in which a Palestinian who was not taking part in the hostilities is killed, and on the lack of suitability of an internal investigation as a means of investigation and way to reach the truth, is known and there is no need to repeat it here.

However, I would like to point out that even when Military Police investigations were opened, a very small number of indictments resulted. Sometimes, the findings of the investigation dictated that no indictment be filed. However, in dozens of cases, the failure resulted from the long time it took for the Judge Advocate General's Office to decide whether to file an indictment. Some cases have been awaiting a decision since 2002. It is difficult to reconcile such delay with a policy of holding security forces accountable.

Clearly, reiterating the regulations before the security forces in the field is not sufficient. Meaningful and effective enforcement of the Open-Fire Regulations, including prosecution of security forces who breach them, is necessary to make it clear to the security forces in which cases the ammunition may be used, and to prevent injury to innocent persons.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessica Montell", with a long, sweeping horizontal line extending to the right.

Jessica Montell

Executive Director

cc: Mr. Meni Mazuz, Attorney General
Mr. Yehoshua Lemberger, Deputy State Attorney
Maj. Gen. Gadi Shamni, Commander of IDF Forces in Judea and Samaria
Human Rights Section Officer, IDF Spokesperson's Office