

EXCESSIVE USE OF FORCE

BY THE ISRAELI ARMY

CASE STUDY

بدیل
المركز الفلسطيني

بمصادر حقوق المواطنة واللاجئين



BADIL

Resource Center

for Palestinian Residency and Refugee Rights

April 2017

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ISBN: 978-9950-339-52-1

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Excessive Use of Force by the Israeli Army: A Case Study

April 2017

Credit and Notations

Many thanks to all who have supported BADIL Resource Center throughout this research project and in particular to all interview partners who provided the foundation for this publication. To honor anonymity and protect the victims, in some cases their names have been omitted and information regarding their locations have been changed.

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BADIL Resource Center for Palestinian Residency and Refugee Rights is an independent, non-profit human rights organization working to defend and promote the rights of Palestinian refugees and Internally Displaced Persons (IDPs). Our vision, mission, programs and relationships are defined by our Palestinian identity and the principles of international humanitarian and human rights law. We seek to advance the individual and collective rights of the Palestinian people on this basis.

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Introduction

In the last months of 2015, protests over ongoing violations of Palestinians' fundamental rights were met with a sharp increase in the illegal use of force and collective punishment by Israel throughout Mandate Palestine. Between 1 October and 31 December, 138 Palestinians were killed by Israeli forces and thousands were injured.¹ By the end of March 2016, the number of Palestinians killed was 200, and by 1 October 2016 it was 232.² This wave of increased violent attacks against Palestinians decreased in intensity as the year progressed, while another kind of suppression of Palestinian resistance began to take place throughout the West Bank in the form of increased use of live ammunition during army raids and clashes.

The number of live ammunition injuries in the period of January-September 2016 was over 60 percent higher than the same period in 2015.³ The number of live ammunition injuries during arrest operations, searches and spontaneous clashes mainly increased during the summer of 2016.⁴ The monthly average of Palestinians injured with live fire increased from 30 per month during the first half of 2016 to 66 per month during July-August 2016,⁵ despite the fact that the total number of injured Palestinians decreased during this time, dropping from a monthly average of 277 injuries during the first six months of 2016 to a monthly average of 255. Therefore, the more recent increase in the use of live ammunition by Israeli forces in summer 2016 during law enforcement operations in the West Bank must be highlighted, considering that the use of live ammunition by the Israeli army increased whereas the number of altercations between them and Palestinians decreased.

1 Ma'an News Agency, *Death in numbers: A year of violence in the occupied Palestinian territory and Israel*. Available at: <http://www.maannews.com/Content.aspx?id=773407>

2 Ibid.

3 Ibid. The amount of live ammunition injuries between September and December is higher in 2015 than in 2016, as they coincide with the most widespread incidents of attacks and clashes since the Second Intifada.

4 OCHA oPt, *Increase in Palestinian live ammunition injuries in clashes with Israeli forces*, 7 October 2016. Available at: <http://www.ochaopt.org/content/increase-palestinian-live-ammunition-injuries-clashes-israeli-forces>

5 Ibid.

Palestinian refugee camps in the West Bank were especially targeted during the summer of 2016. In the period from January to August 2016, 153 out of the 312 injuries - 49 percent - from live ammunition in the West Bank took place in refugee camps during raids by the Israeli forces.⁶ This number illustrates the targeting of the camps by Israeli forces, considering only 7.7 percent of the West Bank population lives in refugee camps.⁷ The total number of Palestinians injured in camps across the West Bank increased from 34 between April and June to 130 between July and August.⁸ Out of the 130 wounded, 91 (70 percent) were shot with live ammunition.⁹ More than half of those injuries occurred in al-Fawwar Refugee Camp with 32 live ammunition injuries, including a killing, and Dheisheh Refugee Camp with 17 live ammunition injuries between July and August 2016.

A significant amount of this increased use of live fire was directed at the lower limbs of Palestinian youth, particularly the knees, which prompted the use of the term 'kneecapping' to refer to these incidents. The high number of kneecappings led BADIL to question whether the Israeli army was implementing a new tactic of excessive use of force. This increased violence was combined with threats of violence, where in at least two different locations Palestinian youth received threats such as "I will make all of you disabled" by upper or mid-level members of the Israeli occupying forces.

This case study aims to analyze the recent increase in the use of live ammunition and its correlation to a wider policy of suppression of resistance by examining three locations that were severely affected by excessive use of force: al-Fawwar Refugee Camp in Hebron, Dheisheh Refugee Camp in Bethlehem, and Tuqu' Village in Bethlehem.

6 Ibid.

7 According to BADIL's Survey of Palestinian Refugees and Internally Displaced Persons 2013-2015, the population in West Bank refugee camps at the end of 2014 was 219,377. Available at: <http://www.badil.org/phocadownloadpap/badil-new/publications/survey/Survey2013-2015-en.pdf>; According to the Palestinian Central Bureau of Statistics, the population of the West Bank at the end of 2014 was 2.83 million. Available at: <http://www.pCBS.gov.ps/site/512/default.aspx?tabID=512&lang=en&ItemID=1292&mid=3171&wversion=Staging>

8 International Solidarity Movement, *UNRWA: Update on Israeli forces use of live ammo in refugee camps*, 22 September 2016. Available at: <https://palsolidarity.org/2016/09/unwra-update-on-israeli-forces-use-of-live-ammo-in-refugee-camps/>

9 Ibid.

Legal Framework

There are two specific paradigms – the hostilities paradigm (derived from International Humanitarian Law (IHL)) and the law enforcement paradigm (derived from International Human Rights Law (IHRL)) – that govern the use of force by military and law enforcement officials. Generally, the law enforcement paradigm is the default paradigm regulating the use of force in any occupied territory, but the hostilities model could be applicable when active hostilities are observable.¹⁰ This usually includes the existence of an active and organized armed resistance, as well as high-intensity violence and a lack of effective control over the area by the occupying power.¹¹ Under these circumstances, the hostilities paradigm would regulate the use of force against legitimate military targets, while the law enforcement paradigm would be applicable in all other circumstances.¹² Excluding those cases, the law enforcement paradigm is applicable.

As Israel has; been in effective control over the occupied Palestinian territory (oPt) and its population, extended the phase of invasion and establishment of occupation since 1967, and as there is no active organized armed resistance in the West Bank, including East Jerusalem, it is generally agreed that the hostilities paradigm is inapplicable. The law enforcement paradigm is applicable in all circumstances including raids, clashes, and arrest operations. In the law enforcement paradigm, both IHL and IHRL govern the policing of the oPt by Israel. As the International Court of Justice (ICJ) reaffirmed in the Wall Advisory Opinion in 2004, IHRL is applicable in situations of occupation because it protects the rights of individuals, in tandem with the protections guaranteed by IHL,¹³ which seeks to limit the effects of armed conflict. However, as neither Article 43 of the Hague Regulations nor Article 64 of the

10 Expert meeting, Occupation and Other Forms of Administration of Foreign Territory, ICRC, June 2012. Available at: <https://www.icrc.org/eng/assets/files/publications/icrc-002-4094.pdf>

11 Kenneth Watkin, Use of force during occupation: law enforcement and conduct of hostilities, *International Review of the Red Cross*, Volume 94, Number 885, Spring 2012, 298-299.

12 Expert meeting, Occupation and Other Forms of Administration of Foreign Territory, ICRC, June 2012, 120. Available at: <https://www.icrc.org/eng/assets/files/publications/icrc-002-4094.pdf>

13 International Court of Justice (ICJ), *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 9 July 2004 (“The Wall Advisory Opinion”).

Fourth Geneva Convention provide specific details about the use of force,¹⁴ measures of force used by the occupying power are entirely regulated by IHRL, notwithstanding the obligations of Israel to maintain public order and safety derived from IHL.

It is important to clarify that although the paradigm and these operations are referred to as “law enforcement” actions, they are not only applicable to police forces and times of peace. The law enforcement regulations apply to all government officials who exercise police powers, which in this case includes the Israeli military and security forces.¹⁵ This means that when policing Palestinian resistance, Israel must follow the same rules as security and police forces anywhere else in the world.¹⁶ Moreover, protests, demonstrations, clashes or other public disturbances – even when weapons are used – do not reach the threshold of hostilities and are therefore regulated by the law enforcement paradigm and not the hostilities paradigm.¹⁷ As such, the legality of the Israeli policies and practices described throughout this report will be explored through the legal framework provided by the law enforcement paradigm, utilizing the relevant IHL and IHRL provisions.¹⁸

International Humanitarian Law

There are two exceptions to the prohibition of the use of force: actions under Chapter VII of the United Nations Charter¹⁹ and the inherent right to self-defense (i.e. in response to an armed attack or an imminent threat of one).²⁰ The right to self-defense is often invoked by Israel to justify its operations in the oPt, however, as the occupying power, Israel cannot invoke this right to justify the use of force against those it is obliged to protect according to IHL.

14 Article 64 of the Fourth Geneva Convention regulates the penal legislation of the occupied territory.

15 Code of Conduct for Law Enforcement Officials, UNGA Resolution 34/169, 17 December 1979 (hereafter ‘Code of Conduct’), Article 1, commentary (a) and (b); Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Eighth UN Congress on Prevention of Crime and Treatment of Offenders, Havana, Cuba, 27 August - 27 September 1990, (hereafter ‘Basic Principles’), preamble.

16 Diakona International Humanitarian Law Resource Centre, Law Enforcement under Occupation: The Case of Willful Killings in the West Bank, August 2015, 6. Available at: <https://www.diakonia.se/globalassets/blocks-ihl-site/ihl-file-list/ihl---briefs/the-case-of-willful-killings-in-the-west-bank.pdf>

17 Ibid.

18 Ibid.

19 Chapter VII of the United Nations Charter allows the Security Council to "determine the existence of any threat to the peace, breach of the peace, or act of aggression" and to take means necessary to "maintain or restore international peace and security." In this matter, the Council can make recommendations or resort to non-military and military action.

20 Noura Erakat, *No, Israel does not have the right to self-defense in international law against occupied Palestinian territory*, blog le Monde, 5 December 2012. Available at: <http://tibaert.blog.lemonde.fr/noura-erakat-no-israel-does-not-have-the-right-to-self-defense-in-international-law-against-occupied-palestinian-territory/>

Palestinians, as an occupied people, are protected persons under Article 4 of the Fourth Geneva Convention, and as such, must be protected against all acts of violence and threats and “shall at all times be humanely treated,” as enshrined in Article 27 of the same convention.

Article 43 of the Hague Regulations declares that one of Israel’s obligations as the occupying power is to restore public order and safety in the oPt. As regulated by the law enforcement paradigm, these policing activities that aim to restore order cannot be carried out by Israel in the same way as hostilities against combatants during armed conflict, but must be dictated by different human rights laws and regulations.²¹ Under this paradigm, live ammunition is only allowed as a last resort, and therefore the use of lethal force by Israeli forces, including the military, in the West Bank is only justified when there is a concrete and imminent risk to life.

Moreover, Article 147 of the Fourth Geneva Convention establishes that “willfully causing great suffering or serious injury to body” is a grave breach of the Convention²² and could constitute a war crime under the Statute of the International Criminal Court.²³ The Fourth Geneva Convention states that this use of force, “if committed against persons or property protected by the present Convention... willfully causing great suffering or serious injury to body or health... not justified by military necessity and carried out unlawfully and wantonly,” will be considered a grave breach of the Convention.²⁴ The International Criminal Tribunal for the Former Yugoslavia held that this grave breach “constitutes an intentional act or omission which causes serious mental or physical suffering or injury, provided the requisite level of suffering or injury can be proven.”²⁵ A further requirement is that the acts must be directed against a ‘protected person.’²⁶ Since omission falls within the scope of willfully causing great suffering or serious injury to body or health, the prevention of medical assistance to the wounded without military justification could also be considered a violation of this prohibition.

In addition, IHL also establishes a blanket prohibition regarding the use of

21 Marco Sassoli and Antoine Bouvier, *How Does Law Protect in War? Cases, Documents and Teaching Materials on Contemporary Practice in International Humanitarian Law*, ICRC, Volume I, Chapter 14, 4; and UN OHCHR, *International Legal Protection of Human Rights in Armed Conflict*, 2011, 66.

22 ICRC, Rule 156 of Customary IHL. Available at: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule156

23 Geneva Convention I, Article 50; Geneva Convention II, Article 51; Geneva Convention III, Article 130; Geneva Convention IV, Article 147; ICC Statute, Article 8(2)(a)(ii) and (iii) and (c)(i).

24 Geneva Convention IV, Article 147.

25 André Klip, *The International Criminal Tribunal for the Former Yugoslavia 2001*. Available at: goo.gl/Dd01SQ

26 Ibid.

what are known as ‘expanding bullets’ or ‘dum-dum’ bullets. In addition to the 1899 Hague Declaration forbidding the use of expanding bullets, Rule 70 of Customary IHL (compiled by the International Committee of the Red Cross) stipulates that “The use of means and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering is prohibited.”²⁷ Rule 77 of Customary IHL also specifically states that “The use of bullets which expand or flatten easily in the human body is prohibited.”²⁸

With regard to threats or psychological oppression, Article 33 of the Fourth Geneva Convention provides that “all measures of intimidation or of terrorism are prohibited.”²⁹ Moreover, Article 51(2) of the 1977 Additional Protocol I to the Fourth Geneva Convention provides that as an occupied population, Palestinians should not be subjected to “acts or threats of violence the primary purpose of which is to spread terror among civilian population.”³⁰

International Human Rights Law

Palestinians in the oPt are entitled to the fundamental rights of protected persons as well as their basic human rights. According to Article 3 of the Universal Declaration of Human Rights (UDHR), “Everyone has the right to life, liberty and security of person.” The prohibition of torture and ill-treatment is also a well-established principle of IHRL, enshrined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Israel in 1991.

When participating in protests and demonstrations Palestinians are not only exercising their right to resist, but also their rights to freedom of peaceful assembly and association, as well as their right to freedom of opinion and expression as enshrined in Articles 19 and 20 of the UDHR. While a general right to resist unlawful actions by legitimate means and methods is not explicitly recognized by international law in a specific provision, it is inferred from customary law, UN General Assembly (UNGA) declarations and other provisions. For example, UNGA resolution 3070 in 1973 upheld “the legitimacy of the peoples’ struggle for liberation from colonial and foreign domination and alien subjugation by all available means, including

27 ICRC, Rule 70 of Customary IHL. Available at: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule70

28 ICRC, Rule 77 of Customary IHL. Available at: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule77

29 Geneva Convention IV, Article 33.

30 In the Wall Advisory Opinion, the ICJ reaffirmed the applicability of the 1977 Additional Protocol I to the oPt, including East Jerusalem.

armed struggle” specifically refers to the Palestinian people.³¹ The right of Palestinians to resist has been reaffirmed by many other UNGA resolutions.³²

When suppressing demonstrations, Israel is carrying out a law enforcement operation as part of its policing obligations as an occupying power. Since the applicable paradigm is that of law enforcement, protesters cannot be treated as combatants, and the regulations regarding the use of force are those established by IHRL.³³ The only restrictions that may be placed on the rights mentioned above are “those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.”³⁴ Protests do not necessarily constitute a threat to national security, public order, safety or the rights of others; indeed, they often constitute positive support for a more democratic and just order.

Moreover, these limitations cannot be applied to what are known as core human rights, such as the right to life or the absolute prohibition of torture and ill-treatment.³⁵ These core rights must be respected even in exceptional situations, and states – or the occupying power in this case – can never derogate them. In addition to the aforementioned human rights treaties, law enforcement activities are governed by the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Basic Principles) and the Code of Conduct for Law Enforcement Officials adopted by the UN General Assembly. These are known as ‘soft law’ instruments,³⁶ but their provisions have been incorporated into customary international law, which is binding.³⁷

31 United Nations General Assembly (UNGA) Resolution A/RES/3070 (XXVIII), 30 November 1973, operative para. 2.

32 Some of them are: UNGA Resolution A/RES/3246 (XXIX), 29 November 1974; UNGA Resolution A/RES/33/24, 29 November 1978; UNGA Resolution A/RES/34/44, 23 November 1979; UNGA Resolution A/RES/35/35, 14 November 1980; and UNGA Resolution A/RES/36/9, 28 October 1981.

33 Al-Haq, *A Demonstration of Power: Israel's Excessive Use of Force resulting in the Killing of Non-Violent Palestinian Protestors and Demonstrators during 2014 and 2015*, May 2016. Available at: <http://www.alhaq.org/publications/papers/Excessive.Use.of.Force.pdf>

34 ICCPR, Article 21.

35 OHCHR, *Core Human Rights in the Two Covenants*, September 2013. Available at: <http://nhri.ohchr.org/EN/IHRS/TreatyBodies/Page%20Documents/Core%20Human%20Rights.pdf>

36 The term "soft law" refers to quasi-legal instruments which do not have any legally binding force, or whose binding force is somewhat "weaker" than the binding force of traditional law, often contrasted with soft law by being referred to as "hard law."

37 Al-Haq, *Unlawful killing of Palestinians by Israeli Occupying forces*, 31 October 2015. Available at: <http://www.alhaq.org/advocacy/topics/right-to-life-and-body-integrity/982-unlawful-killing-of-palestinians-by-israeli-occupying-forces?format=pdf>

The Basic Principles establishes that “Law enforcement officials shall not use firearms against persons except in self-defense or defense of others against the imminent threat of death or serious injury,” “only when less extreme means are insufficient to achieve these objectives” and only “when strictly unavoidable in order to protect life.”³⁸

The Basic Principles establishes in its second general provision that in order to conduct law enforcement operations, Israel is responsible for developing and equipping its forces with different weapons that allow for a differentiated use of force.³⁹ This includes the provision of a wide range of non-lethal weapons in order to decrease the use of lethal weapons, which cause death or injury to protesters.⁴⁰ Under international standards, law enforcement personnel “are required to be trained in, to plan for, and to take, less-than-lethal measures – including restraint, capture, and the graduated use of force.”⁴¹ Moreover, Israeli forces should be properly equipped with self-defense equipment such as shields, bullet-proof vests and helmets, and bullet-proof transportation so as to increase the threshold of necessity to use more dangerous weapons against protesters.⁴² The Basic Principles also adds in its fourth general provision that those responsible for carrying out law enforcement operations should, as far as possible, use non-violent means to stop the protest before resorting to the use of force. Force and firearms might only be used if other methods were proven ineffective.⁴³ These provisions are rarely followed by Israel, in either their own regulations, or in practice.

The Code of Conduct of Law Enforcement Officials⁴⁴ specifies that the use of firearms is an exceptional and extreme measure, and that law enforcement personnel should make every effort to exclude their use. It also adds that “Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty,” which means their use should follow the principles of necessity and proportionality.

38 United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders (1990), General Provision No 9.

39 Basic Principles, *op. cit.*, General Provision 2.

40 *Ibid.*

41 UN Special Rapporteur Philip Alston, *op. cit.*, 22.

42 Basic Principles, *op. cit.*, General Provision 2.

43 *Ibid.*, General Provision 4.

44 United Nations Code of Conduct for Law Enforcement Officials, adopted by the General Assembly, Resolution 34/169, 17 December 1979.

Principles that Regulate the Use of Force in Law Enforcement Operations

International law gives states a significant amount of discretion and power regarding how they want to set up their law enforcement mechanisms and how to ensure the maintenance of law and order. However, regardless of the system used every state must respect and abide by its obligations under IHRL, meaning that domestic legislation, policies and practice must comply with the relevant international law provisions and standards. In this regard, there are four fundamental principles that generally govern all actions by a state that might affect human rights, and they are also the overarching principles for the use of force during law enforcement operations.⁴⁵

Legality

This principle, derived from the first General Provision of the Basic Principles, states that all law enforcement actions should be based on provisions set forth in domestic or international law.⁴⁶ It is understood that provisions of national law/regulations should be in conformity with international law standards and provisions. This requires states to adopt and implement laws and rules regulating the use of force by law enforcement officials.⁴⁷ This legal framework should regulate all the details and potential circumstances that could arise during law enforcement operations.⁴⁸ Accordingly, the use of force must only be used for a lawful enforcement purpose.⁴⁹

Necessity

The principle of necessity states that firearms or live ammunition can only be used when there are no other means available to stop or detain the suspect during law enforcement activities.⁵⁰ Their use must be a measure of last resort and absolutely necessary to protect life. The European Convention of Human Rights stipulates that force, in general, should

45 ICRC, International Rules And Standards For Policing, 10 March 2014, 18. Available at: <https://www.icrc.org/en/publication/0809-international-rules-and-standards-policing>

46 ICRC, International Rules And Standards For Policing, 10 March 2014, 18. Available at: <https://www.icrc.org/en/publication/0809-international-rules-and-standards-policing>; Basic Principles, *op. cit.*, General Provision 1.

47 Advisory Service On International Humanitarian Law, The use of force in law enforcement operations, ICRC, 2. Available at: <https://www.icrc.org/en/download/file/12747/the-use-of-force-in-law-enforcement-icrc-eng.pdf>

48 Ibid.

49 UN Peacekeeping PDT Standards, Specialized Training Material for Police 1st edition 2009, 10. Available at: goo.gl/CG6NTf

50 Al-Haq, *Unlawful killing of Palestinians by Israeli Occupying forces*, 31 October 2015, *op. cit.*

not be used except when it is necessary “in defence of any person from unlawful violence.”⁵¹

To assess necessity, questions should be raised: first, does the situation justify the use of force, i.e. is there an imminent threat? Second, are there any other non-lethal measures that could be used to restore order? If the situation does require the use of force then non-lethal methods should be utilized first. This principle provides an assessment for the need to use force in a specific situation and to verify whether all other means have been exhausted, in order to ensure that live ammunition is a measure of last resort.⁵²

Proportionality

While the principle of necessity is about the requirement of intervention, the principle of proportionality assesses the amount of force that is permissible or reasonable to use for the objective to be achieved. The proportionality principle considers whether the “consequences for the suspect of applying a higher level of force would ‘outweigh’ the value of the objective.”⁵³ As mentioned above, a law enforcement officer can only shoot to kill if there is both an imminent threat to life – which would make the use of lethal force proportional – and no other means are available to prevent the threat to life – which would make it necessary.⁵⁴

For example, because youth throwing stones are not posing a threat to life, the authorization by Israeli authorities for the use of live ammunition against them is neither necessary nor proportional and therefore lethal force is not justified.⁵⁵ Stopping clashes through the use of live ammunition in circumstances in which the Israeli soldiers are not under imminent threat of death (or even, it could be argued, of injury, considering the distance between the protestors and the soldiers, their protective uniform, and the lack of weapons of the Palestinian youth), represents an excessive use of force that is disproportionate to the threat the youth represent and for the purposes mentioned. This use of force does not constitute self-defense and is illegal under international law.⁵⁶ The authorization to use live ammunition is illegal *per se* as it does not fulfill the requirements of the principle of necessity (imminent threat to life and exhaustion of all other means) nor of the principle

51 European Convention of Human Rights, Article 2(2).

52 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, *op. cit.*, Principle 4.

53 United Nations General Assembly, *Extrajudicial, Summary or Arbitrary Executions, Note by Secretary General*, A/61/311, 5 September 2006, 15.

54 UN Special Rapporteur Philip Alston, *op.cit.*, 11.

55 Amos Harel, *Netanyahu Asks Attorney General to Authorize Sniper Fire Against Stone-throwers*, Haaretz, 16 September 2015. Available at: <http://www.haaretz.com/israel-news/premium-1.676190>

56 European Court of Human Rights, *Ogur v Turkey*, No 21594/93, 20 May 1999.

of proportionality (assessment of the force to be used taking into account the objective of the operation). Using live bullets to stop unarmed youth in clashes is neither proportional nor necessary when measures that involve less force such as water cannons, tear gas, skunk water, or even rubber bullets are available. Considering the high probability of confrontations during a raid in a refugee camp or Palestinian village, it is reasonable to assume that the Israeli forces would be equipped with several different weapons that could be used to stop the youth other than live ammunition.

Although stone-throwing by protesters rarely poses a threat to the lives of Israeli soldiers or others, the Israeli forces often respond with excessive use of force against protestors, including; the use of teargas fired from M16-style weapons to reach further distances or fired directly at protestors or bystanders with the intention to hit,⁵⁷ stun grenades, rubber-coated bullets fired at short distances in which they might be lethal, and live ammunition, which frequently results in the killing and injury of civilians.⁵⁸ Moreover, the Israeli army often uses 0.22 caliber bullets as a non-lethal weapon for crowd dispersion.⁵⁹ The Ruger sniper rifle that is usually used to shoot these 0.22 bullets, popularly known as ‘tutu’ bullets, has recently been authorized to be used for riot dispersal by the Israeli occupying forces in the West Bank, including East Jerusalem.⁶⁰

Accountability

Potential incidents of excessive use of force require immediate investigation by the relevant authorities or, if the state is unwilling or unable to, by the international community. The Basic Principles require that governments and law enforcement agencies establish effective reporting and review procedures for all incidents where injury or death is caused by the use of force and firearms by law enforcement officials. Therefore, they should report the incident promptly to their superiors, and provide for a system of reporting whenever law enforcement officials use firearms in the performance of their duty. The Basic Principles also require that “In cases of death and serious injury or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control.”⁶¹ Moreover, the persons affected by the use of force and

57 B’Tselem, *Crowd Control: Israel’s Use of Crowd Control Weapons in the West Bank*, January 2013. Available at: http://www.btselem.org/publications/summaries/201212_crowd_control

58 Al-Haq, *A Demonstration of Power: Israel’s Excessive Use of Force resulting in the Killing of Non-Violent Palestinian Protestors and Demonstrators during 2014 and 2015*, May 2016. Available at: <http://www.alhaq.org/publications/papers/Excessive.Use.of.Force.pdf>

59 B’Tselem, *Crowd Control: Israel’s Use of Crowd Control Weapons in the West Bank*, *op. cit.*, January 2013.

60 Times of Israel, *IDF says Palestinian boy was killed by mistake*, 6 October 2015. Available at: <http://www.timesofisrael.com/idf-says-palestinian-boy-was-killed-by-mistake/>

61 UN Basic Principles, Reporting and Review Procedures 22.

firearms or their representatives must have access to an independent legal process, including a judicial process.⁶²

In the case of the West Bank, the body responsible for carrying out such investigations is the Military Police Criminal Investigations Division (MPCID).⁶³ However, following a change in policy in April 2011, it does not investigate any shootings of Palestinians that result in non-fatal injuries, even when the injuries are very serious or lead to permanent disabilities, unless they receive a formal complaint.⁶⁴ For an investigation to be opened into a non-fatal injury, the Military Advocate General's Corps (MAG Corps), responsible for the MPCID, must receive a formal complaint within 60 days of the shooting.⁶⁵ Filing a complaint is a hazardous task for Palestinians in the West Bank, which more than likely involves putting themselves at risk. The High Contracting Parties of the Geneva Conventions have an obligation under Article 146 of the Fourth Geneva Convention to identify and bring to justice the individuals that allegedly committed, or were ordered to commit, any of the acts that constitute a grave breach of the convention. Customary international law also establishes that “states must exercise the criminal jurisdiction which their national legislation confers upon their courts, be it limited to territorial and personal jurisdiction, or include universal jurisdiction, which is obligatory for grave breaches.”⁶⁶ Moreover, if a state is manifestly failing and/or unwilling to protect the population under its jurisdiction, as in the case of the Palestinian population in the oPt, the international community, as in, UN Member States, must be prepared to take collective action through the Security Council to protect them, in accordance with the Charter of the UN.⁶⁷

The resulting ongoing violence is made possible through the implementation of policies of suppression of resistance through excessive, and often lethal, use of force and the impunity enjoyed by the Israeli occupying forces. This reality has had a severe impact on Palestinians, as it directly violates fundamental rights such as the freedom of assembly, expression, and more generally, Palestinians’ right to resist which is enshrined in UNGA Resolution 3070.⁶⁸

62 UN Basic Principles, Reporting and Review Procedures 23.

63 Amnesty International, *Trigger-Happy: Israel's Use Of Excessive Force in the West Bank*, February 2014, 31. Available at: <https://www.amnesty.org/en/documents/MDE15/002/2014/en/>

64 Ibid.

65 Ibid.

66 ICRC, Rules 157 and 178 of Customary IHL. Available at: https://ihl-databases.icrc.org/customary-ihl/eng/print/v1_cha_chapter44_rule158

67 UNGA, Resolution 60/1 (2005 World Summit Outcome), 24 October 2005, 30. Available at: <http://www.un.org/womenwatch/ods/A-RES-60-1-E.pdf>

68 UNGA, Resolution 30710 (XXVIII), A/RES/30/70, 30 November 1973, operative para. 2.

Case Study 1:

AL-FAWWAR REFUGEE CAMP

Al-Fawwar is a Palestinian refugee camp located eight kilometers south of Hebron, in the south of the occupied West Bank, and has a population of approximately 8,100 refugees.⁶⁹ Incursions into the camp by the Israeli army, camp closures, and clashes between youth and Israeli soldiers have been common occurrences in the past five years. In August 2016, however, al-Fawwar witnessed an unusually violent incursion by the Israeli occupying forces during which the residents were subjected to excessive use of force, particularly live ammunition. The raid, described by the Israeli army as an “operational activity to uncover weaponry,”⁷⁰ resulted in the killing of a 19-year-old resident, at least 32 live ammunition injuries in the legs, and 20 other injuries.⁷¹ Search operations by the Israeli occupying forces occurred in at least 200 houses of the camp.⁷²

ISRAELI INCURSION OF 16 AUGUST

Al-Fawwar was raided by the Israeli occupying forces on 16 August 2016. They entered the camp between 2 and 4 a.m. and remained in the camp until 10 p.m. that same day. The Israeli soldiers came on foot through the mountains and invaded al-Fawwar silently, immediately taking over several rooftops from which they controlled most of the movement inside the camp. Most of the houses they occupied were the highest ones in the area which oversee the whole camp. The soldiers moved from house to house carrying out search operations, destroying personal items and

69 UNRWA, al-Fawwar Camp. Available at: <http://www.unrwa.org/where-we-work/west-bank/fawwar-camp>

70 Ma'an News Agency, *Israeli forces withdraw from devastated al-Fawwar, leaving Palestinian teen killed, 45 injured*. 17 August 2016. Available at: <https://www.maannews.com/Content.aspx?id=772723>

71 UNRWA, *UNRWA gravely concerned by death of young refugee in Israeli military operations*, 23 August 2016. Available at: <http://www.unrwa.org/newsroom/official-statements/unrwa-gravely-concerned-death-young-refugee-israeli-military-operation>

72 Ibid.

property of families living in the camp.

“They invaded my house, searched all of it and threw all the clothes and sheets to the ground; they moved all the furniture and then went to the house next to us.”

*Staff member of the Red Crescent residing in al-Fawwar Refugee Camp;
interview on 23 September 2016*

According to UNRWA and news reports, the Israeli soldiers hid in buildings so that they were not visible from the streets, and moved from one place to another through hidden pathways. As a consequence, many residents of the camp were unaware of the presence of soldiers until hours after the initial penetration. During the course of the invasion, the Israeli occupying forces searched over 200 houses in the camp and restricted the movement of the residents. Some families claimed that the soldiers stole some of the gold jewelry that they had in the house during the searches. In the majority of cases household members were not allowed to remain with the soldiers during the search, so the residents were unable to monitor their activities. At least 28 homes suffered property damage caused by the Israeli forces during the raid.⁷³

The Israeli army claimed that the raid was to search for weapons in the camp, yet during the 16-18 hours the soldiers were in the camp no arrests were made and only two pistols were discovered.⁷⁴

During the incursion, clashes broke out between the Israeli occupying forces and the residents of the camp. Various reports indicated that the Israeli soldiers used mainly live ammunition and stun grenades, though rubber-coated bullets and tear gas were also used in lesser amounts. Eyewitnesses asserted that the residents of al-Fawwar did not respond with lethal weapons but rather with stones and empty bottles, though some also mention the use of Molotov cocktails by the youth.⁷⁵ Eyewitnesses also affirmed that the clashes only took place in specific areas of the camp, that there were not a large number of youth throwing stones, and that the soldiers were not in close proximity to the the protestors. The number of Israeli soldiers present, their location, and their equipment demonstrated that attempts by the youth

73 Ma'an News Agency, *B'Tselem: Palestinian youth killed in al-Fawwar refugee camp away from clashes when shot dead*, 10 September 2016. Available at: <https://www.maannews.com/Content.aspx?id=773083>

74 Amira Hass, *One Killed and Dozens Wounded at a Palestinian Refugee Camp, All for Two Pistols*, Haaretz, 21 August 2016. Available at: <http://www.haaretz.com/israel-news/.premium-1.737768>

75 OCHA oPt, *Increase in Palestinian live ammunition injuries in clashes with Israeli forces*, 7 October 2016. Available at: <http://www.ochaopt.org/content/increase-palestinian-live-ammunition-injuries-clashes-israeli-forces>

to respond to the invasion of the camp rendered no lethal threat to the lives of the soldiers.

In the afternoon, additional soldiers came in jeeps, at which time the whole camp was under Israeli control. It was also in the afternoon that the soldiers began to use tear gas and stun grenades. Eyewitnesses stated that in the morning hours the only weaponry they used was live ammunition. In total, 32 people were shot in the legs with live ammunition during the raid - two of them directly in the knees. The majority were shot by snipers placed on rooftops, including 19-year-old Mohammad Abu Hashhash, who was shot dead. It was reported that the sniper was located at an approximate distance of 100 meters away from Abu Hashhash when the shooting happened and that he was not involved in clashes at the time of his killing.⁷⁶ During the confrontations, the distance between the soldiers and the youth was between 100 and 200 meters. Considering the distance between them, it is unlikely that the stones or Molotov cocktails (if used) would reach the Israeli forces. It can be concluded, therefore, that in this case neither the bystanders nor the youth participating in the clashes posed any immediate threat to life or injury that would justify the use of lethal force. Testimonies and reports indicated that the Israeli forces had control of the situation and that no soldiers were injured during the raid.

It was also reported that some shootings occurred without provocation or warning, such as the shooting of one resident of the camp in the knee as he was getting out of his car.

“I stopped my car on the side of the street, no clashes were happening. The distance between the soldiers and us was about 150 meters. I opened the door of my car and as I put my leg on the ground I was shot. It was a 0.22 [tutu] bullet. We did not hear any sound when they shot. It was by a sniper [with the soldiers]. The soldiers were on the ground, not on a rooftop.”

*Resident of al-Fawwar;
interview on 23 September 2016*

“Even the people who were going to work were shot at and many were injured with no prior warning. One man was getting out of his car and as he put his foot on the ground was shot in the leg. My

⁷⁶ UNRWA, *UNRWA gravely concerned by death of young refugee in Israeli military operation*, 23 August 2016. Available at: <http://www.unrwa.org/newsroom/official-statements/unrwa-gravely-concerned-death-young-refugee-israeli-military-operation>; Ma'an News Agency, *B'Tselem: Palestinian youth killed in al-Fawwar refugee camp away from clashes when shot dead*, 10 September 2016. Available at: <https://www.maannews.com/Content.aspx?id=773083>

colleague from the Red Crescent saw the shooting and he was the one who provided first aid to the injured man.”

*Staff member of the Red Crescent in al-Fawwar;
interview on 23 September 2016*

The Red Crescent staff member also stated that the provision of medical assistance was hampered by the Israeli army.

“On my way to the camp, I called my colleagues of the Red Crescent, the medical staff, and they said that they were not able to move anywhere or reach any of the injured people.”

*Staff member of the Red Crescent in al-Fawwar refugee camp;
interview on 23 September 2016*

**Testimony:
22-year-old resident of al-Fawwar Refugee Camp
on 23 September 2016**

In another incident of excessive use of live ammunition, Israeli occupying forces shot a 22-year-old youth four times as he was sitting on his rooftop, observing the soldiers.⁷⁷

“There were no clashes or any kind of confrontations between us and the soldiers in my area. The soldiers were in different homes and no one from outside this area [where the searches were happening] knew they were there. Everything was quiet and normal and no one talked to the soldiers in my area at all.

Usually, the Israeli forces invade the camp to arrest people and they don’t stay longer than one or two hours. That day, they stayed until 9 or 10 p.m., which was kind of strange. I was listening to the radio when I was shot. I heard on the radio that nine or ten Palestinians were injured before me, but they were participating in clashes on the main street, two streets away from my area where there weren’t any clashes. I was the first one in the area to be shot and injured. It’s very well-known that we [the youth of al-Fawwar] never use handmade explosive devices or Molotov cocktails during clashes, we only throw stones.

⁷⁷ B’Tselem, Footage from Ma’an News Agency, *Military sniper threatens, then shoots and injures youth, August 2016*, video, 2:07, 21 September 2016. Available at: <https://www.youtube.com/watch?v=P8eMMS7WqU>. Warning: this video contains graphic content.

There was nothing happening. The soldiers came from the mountains and stayed in the homes of Bilal Mu'eewi and Hani Abu Hashhash, and they didn't do anything. Even those who were walking in the street didn't realize that there were soldiers in the area.

I was sitting with my family on the rooftop. At 8 a.m., I went downstairs to have some coffee. Then, I went upstairs to the rooftop again around 9 a.m. Many news agencies like Ma'an and Palestine Today came to cover the situation. They needed a good location, from which they could take good footage. Thus, they went up to the rooftop of our neighbor. The minute I reached our rooftop, a soldier [on a nearby rooftop] asked me in Arabic: "Where do you want it to be?" I immediately ran towards a spot from which he couldn't see me anymore. My neighbor asked me what the soldier told me. I said: "He asked me where I wanted..." Before I could even finish my sentence, the soldier, who was a sniper, shot me from behind three times [in the legs]. I turned around and waved my hand to tell him to stop, so he shot a fourth bullet in the palm of my hand. I believe the soldier shot me because he wanted to show the journalists that he didn't care about their presence.

The sniper who shot me was about 80 meters away from me. I was directly opposite him. There were a lot of journalists only five or ten meters behind me, and all of the neighbors were on their rooftops, including my own family. I was just listening to the radio on my phone and drinking coffee; I wasn't throwing stones. Even if I wanted to throw stones, I'd never throw them from my own home, and the stones would never hit him [the soldier] because he was far away from me.

[When I was shot] the Palestinian Red Crescent Society's volunteers were in the area, so they came and gave me first aid. Then they said that I needed an ambulance. The camp was still quiet and normal. However, they had to carry me to the main street because the soldiers were still surrounding the area. Then we approached the bypass [colonizer-only] road, and the ambulance took me to al-Ahli Hospital [in Hebron].

We arrived at the hospital at around 10 a.m. I had an X-ray and CT scans at 11 a.m., and then they took me to a room and the doctor told me that my veins were burst and that they didn't have a specialist in the hospital to give me treatment. I was transferred to Ramallah, where we arrived at 9 p.m. I had more X-rays and CT scans. I also

underwent surgery at midnight. They told me that I had serious nerve injuries, and that they were going to take time to get better. I stayed at the hospital in Ramallah for 10 days before I had my second surgery, in which they took a bullet out of my knee. After that, they let me go back home because they said they couldn't do anything to take out the 80 fragments I had inside my body. I still have a bullet in my pelvis, 50 fragments in one hand, and 30 fragments in the other one [from stray shrapnel].

He shot me four times; twice in my left leg, once in my right leg (one under the knee, one in the knee, one in the thigh that settled in the pelvis), and once in my palm. The bullet type was 0.22. I wasn't warned directly before I was shot. However, I heard some people saying that they heard the soldiers threatening to make all of the youth from the camp disabled.

My right leg is kind of good, but when I move it, it hurts me. The nerves in my left leg hurt 24 hours a day, and it's going to take so much time to get better. My palm also hurts sometimes. They said I can get rid of the fragments, but I will have to have a lot of surgeries. We can't do anything about the bullet inside my pelvis.

I'm okay now, but sometimes I get irritated when I remember that I didn't do anything wrong. I ask myself: why did he shoot me?

I heard that a soldier in Dheisheh Camp threatened to make half of the people in the camp spend the rest of their lives in wheelchairs, and the other half pushing them. It was the same here. I think they want to silence the people in the camps."

ISRAELI VIOLATIONS

Based on the evidence and testimonies, it can be concluded that Israeli forces did not follow the principles of proportionality and necessity in the use of live ammunition during the raid of al-Fawwar Camp on 16 August 2016. In the case of the killing of Mohammad Abu Hashhash, considering the distance between the soldiers and the youth, the positioning of the soldiers in a secure position, and their protective uniform,⁷⁸ it constitutes an extrajudicial killing. In the case of the man who was shot getting out of his car, and the 22-year-

⁷⁸ Israeli soldiers and border police wear full military gear during incursions, which typically includes a military uniform, bullet-proof helmet, bullet-proof vest, elbow and knee-pads, facial protection screens, and other protective equipment, often traveling in protected vehicles.

old resident that was shot on his roof, it can be concluded that both amount to cases of excessive use of force and “willfully causing great suffering or serious injury to body or health, not justified by military necessity and carried out unlawfully and wantonly.” Moreover, the Israeli forces also prevented adequate medical assistance from reaching those who were wounded without justification, which is illegal under international law. Israel is obliged to equip its forces with “different weapons that allow for a differentiated use of force”⁷⁹ and to begin with the least amount of force, gradually increasing it if necessary. This was not the case during the raid of al-Fawwar, when the soldiers mainly used live ammunition despite the youth not presenting a threat to their lives. The conduct of the Israeli forces raises concerns about their disregard towards the principles and regulations of international law. Particularly since the excessive use of force against the residents of the camp, and especially youth who did not pose an immediate threat, was the norm rather than the exception. It is this widespread use of live ammunition that resulted in the killing of Abu Hashhash and the injuries of 32 residents with live fire, even though any threat the youth may have represented to the soldiers could have been contained by non-lethal means involving less force.

⁷⁹ Basic Principles, *op. cit.*, General Provision 2.

PHOTO ALBUM: AL-FAWWAR REFUGEE CAMP



Israeli occupying forces being deployed inside al-Fawwar Refugee Camp on 17 August 2016.



Israeli drone and zeppelin patrolling the movement in the Camp.



Israeli army snipers stationed in the homes of residents of al-Fawwar Refugee Camp.





Palestinian youth receiving medical care in al-Fawwar after being shot by Israeli forces.



Screenshots of a video published on youtube. (<https://www.youtube.com/watch?v=P8eMMS7WqU>).

On 16 August 2016, a sniper seriously wounded Mohammad al-Amsi, while standing on the roof of his home during the military raid on al-Fawwar. The sniper fired four 'tutu' bullets at al-Amsi, immediately after shouting to him, "Where do you want it to be"? A photographer with Ma'an, a Palestinian news agency, who was standing on a nearby roof, caught part of the incident on video.

Case Study 2: DHEISHEH REFUGEE CAMP

Dheisheh is a Palestinian refugee camp in the south of Bethlehem, in the occupied West Bank. As of the end of 2015 its population was roughly 15,000.⁸⁰ Violent confrontations against youth by Israeli soldiers during army incursions are common in the camp, despite its location in Area A, which, according to the Oslo Accords, falls under Palestinian Authority control. While youth in Dheisheh frequently experience grave and permanent injuries due to other means such as gas, rubber bullets, and sound bombs, Dheisheh Camp witnessed a significant increase in live ammunition injuries during the months of July, August, and December 2016. Over the course of four separate night incursions, between the end of July and the end of August, at least 17 youth aged between 14 and 27 were shot by the Israeli forces.⁸¹ In December, another eight youth were shot during two separate raids, bringing the total number of youth injured with live ammunition to 25 during the six raids. The majority of these injuries were in their lower limbs, with at least eight in the knees and some in both legs.

ISRAELI INCURSION OF 28 JULY

Residents' testimonies state that the Israeli occupying forces entered Dheisheh Refugee Camp at around 12 a.m. on 28 July 2016 and left at around 4 a.m. During the raid, four residents were arrested: Raghad Shamrouk, Karam Nasri Abd al-Rabbu, Hamdi Maruf al-Atrash, and Bilal al-Meiwi.

Shortly after the incursion, confrontations started between youth in the camp and the Israeli soldiers. The majority of the confrontations and injuries took place just outside Dheisheh Camp near a gas station known as 'al-Huda,'

80 UNRWA, Profile: Dheisheh Camp. Available at: https://www.unrwa.org/sites/default/files/dheisheh_refugee_camp.pdf

81 OCHA oPt, *Increase in Palestinian live ammunition injuries in clashes with Israeli forces*, 7 October 2016. Available at: <http://www.ochaopt.org/content/increase-palestinian-live-ammunition-injuries-clashes-israeli-forces>

on the Jerusalem-Hebron Road. During the confrontations, the youth of the camp threw stones at the soldiers. The clashes lasted for around four hours, from approximately midnight to 4 a.m. The estimated distance between the youth and the Israeli soldiers was around 50 meters on the main road, and less than that inside the camp. Several eyewitnesses testify that no Molotov cocktails or handmade explosive devices were utilized by the youth, only stones.

“The youth were throwing only stones, they were too young to throw Molotovs or handmade explosives, if they had thrown any Molotov or explosives we would have been the first people to know, because we were being used as human shields [by the Israeli soldiers].”⁸²

*25-year-old resident of Dheisheh,
detained for four hours by the Israeli forces on the night of 28 July 2016;
interview on 22 September 2016*

Four residents of the camp were injured with live ammunition during the confrontations and a fifth was injured by the Israeli forces after he was run over by one of their jeeps. According to the testimonies collected, they were shot with 0.22 caliber bullets by a sniper, three of them in one leg and the fourth in both legs.

The youth who was run over was not involved in the clashes, according to his own testimony and those of several eyewitnesses. He was on his way home to Dheisheh, waiting for the confrontations to end and standing near a supermarket opposite the camp when the soldiers started to leave the area in jeeps. When the last jeep exited the camp, it drove towards him, hit him and ran over him. Given that he was standing on the side of the road, that none of the other jeeps went close to him, and that the jeep did not stop after the incident, it could be concluded that it was intentional. The injured youth underwent surgery on both legs and are still recovering at the time of the writing of this report.

According to two eyewitness testimonies, an Israeli sniper shot at youth during the confrontations. These two witnesses stated that he was situated behind a one-meter-high wall with a second soldier behind him with a special telescope for better vision. With them was a captain who used a laser device to select targets for the sniper to shoot. These actions show that the use of live ammunition was neither in response to an emergency situation nor an immediate threat, nor did it follow the principles of necessity or proportionality. None of the soldiers behind the wall, including the sniper

⁸² See testimony on page 29.

who shot the legs of the youth, were at direct risk, meaning they acted with the specific intention of injuring them. The eyewitnesses claimed that the sniper only fired four shots during the incursion that night, each shot injuring a youth from the camp.

The first youth shot by the sniper was injured when he was around 50 meters away from the soldiers, a distance from which he could hardly have posed any danger to the soldiers by throwing stones. One of the eyewitnesses stated that after this first shooting, the soldiers asked him to walk over to the youth and ask them to stop throwing stones because the soldiers were planning to leave. The eyewitness refused at first, after which he was threatened at gunpoint and forced to do it. He shouted at the youth to stop and they stopped momentarily, yet the soldiers did not leave. The eyewitness says that for a while the clashes stopped, but the moment one of the youth appeared in the main road again they were immediately shot by the sniper in the leg.

Eyewitnesses also claimed that the soldiers used a few stun grenades and no rubber bullets. The predominant response to the stone throwing was live ammunition with 0.22 bullets. They also shot live ammunition into the sky with the intention of dispersing the youth at the end of the confrontations around 4 a.m.

***Testimony:
25-year-old resident of Dheisheh Refugee Camp
on 22 September 2016***

“On 28 July 2016 I was driving home, it was around midnight when I was surprised to see the soldiers in the middle of the street. They were arresting a person who lives on the main road in front of the camp. They were in small military jeeps. They stopped me and asked me to turn off the engine of the car and to leave the key in the car. My car is a jeep. They asked me and my friend to leave the car and took us with them, and used the car and us as a shield for them. They kept us with them from approximately 12:30 a.m. to 4 a.m. We were subjected to verbal and physical abuse and were humiliated by the soldiers. They beat me and my friend. Our car was damaged from the stones and from the soldiers because they used it as a shield. I argued with the soldiers, asking them to move the car, but they didn't listen to me and beat me instead.

I saw two people get shot in front of me. I was next to the soldiers

when they shot them. When they shot the first one, I asked the soldier 'What right do you have to shoot those kids?' The soldier loaded his gun and put it in my face, and said 'If you say one more word I will shoot you.' When they shot the second kid I asked again, and was beaten again. I didn't feel that there was any danger to the soldiers' lives. All the stones thrown at them barely reached their feet or didn't reach them at all, and they were wearing full armor and helmets, even a bullet could not hurt them.

At approximately 4 a.m., during the withdrawal of the Israeli forces, they asked me to start walking to my car as the big military jeeps arrived to take the soldiers. I started walking and after 10-15 meters there were six soldiers around us. All of them started moving, but the sniper was still in his place and didn't move with them. He made a gesture at me to keep moving towards my car. When I was right next to my car, I suddenly got shot in my left knee. How and why I don't know. It was with a 0.22 bullet. I was stranded on the ground bleeding for almost 5 minutes until all the soldiers left and the ambulance could come take me.

The injury has affected my everyday life. I have spent the past two months at home, not moving. The injury is better now; I started my physiotherapy 20 days ago and I will be doing that for at least another month. The injury is in the knee area, but fortunately the bullet did not touch any bones. Some of the youth, however, have permanent injuries and it is impossible for them to go back to their normal lives again. I feel that the occupation forces want to end the phenomenon of youth throwing stones in the camp. Especially when they want to arrest someone in the camp, they don't want to face clashes and have stones thrown at them."

ISRAELI INCURSION OF 1 AUGUST

The Israeli forces invaded Dheisheh Refugee Camp around 5:30 a.m. on 1 August 2016. They were in the camp for a period of time ranging from 30 minutes to an hour. The purpose of the raid was to arrest two of its residents, Yazan Jueedi and Mustafa Hasanat, both of them in their early 20s. Jueedi was arrested near the Jerusalem-Hebron Road, in the location known locally as the 'Doha roundabout,' while Hasanat was detained and then released near Rachel's Tomb. The clashes between the youth and the Israeli forces started inside Dheisheh in the al-Walajiyah neighborhood, near the Jerusalem-Hebron Road. The clashes continued until around 6:30 a.m. when the soldiers withdrew. Initially, around

5:30 a.m., a group of undercover Israeli soldiers entered the camp dressed as civilians in cars with Palestinian plates. When word spread that Israeli soldiers were in the camp, clashes broke out in the area. Youth of the camp started throwing stones at the soldiers. The soldiers did not shoot tear gas or rubber bullets or use any other measures of crowd control. They also did not issue any warnings or interact with the youth in any way.

During the confrontations inside the camp, the distance between the youth and the soldiers was only a few meters. Moreover, some of the youth climbed up to the rooftops and were in an elevated position in comparison to the soldiers. However, no live ammunition was used inside the camp despite the greater threat that the youth posed to the soldiers there than in the main road. This supports the argument that the use of live ammunition by the Israeli forces took place not in response to actual threats but with the intention to cause injury.

Eyewitnesses stated that around 50 youth from the camp were in the area where the soldiers were. Out of those, 20 were actively involved in the confrontations. After leaving the camp, the soldiers continued to the city of Doha, located across the road from Dheisheh. The soldiers were marching down the Jerusalem-Hebron Road which divides the camp and the city, on the Doha side of the street, while youth from Dheisheh followed them on the other side. During these confrontations, a youth from the camp was shot in the calf near the Russian Cultural Center, also located on the Jerusalem-Hebron Road. Eyewitnesses stated that the soldier who shot the youth was at a faraway distance at the time of the shooting. Farther down the street, reinforcements and jeeps were waiting for the soldiers. Following this first shooting, three more youth were shot on the road before the final withdrawal of the soldiers.

One of the youth injured during the withdrawal of the Israeli soldiers was shot three times in the legs by a sniper with live ammunition. Another youth who ran to assist him was shot twice in the legs immediately afterwards, also by a sniper. They were both evacuated by Palestinian paramedics to a hospital where they underwent surgery. The youth that was shot three times has had six operations since the shooting and at the time of writing this report still requires further medical treatment to avoid a permanent disability.⁸³

No attempt was made by the Israeli occupying forces to disperse the youth or stop the confrontations using less forceful methods or warnings;

83 OCHA oPt, *Increase in Palestinian live ammunition injuries in clashes with Israeli forces*, 7 October 2016. Available at: <http://www.ochaopt.org/content/increase-palestinian-live-ammunition-injuries-clashes-israeli-forces>

live ammunition was the first and only method used against the youth. Eyewitnesses testified to BADIL that during their withdrawal the soldiers were provoking the youth, dancing and making moves in order to encourage the youth to attack them.

***Testimony:
21-year-old resident of Dheisheh Refugee Camp
on 22 September 2016***

“I am a 21-year-old resident of Dheisheh and I was shot in my left knee on 1 August 2016. I was injured around 6 a.m. near Doha, next to the main road.

The night I was shot, Israeli undercover forces entered the camp in Palestinian cars. People were either asleep or on the internet. One of the guys called the others and told them that there were some Israeli soldiers in the camp. I went down to the street to see and found out it was true. The youth started to throw stones. The soldiers shot only live bullets that night. They didn’t shoot tear gas or rubber bullets.

I was standing behind a tree observing the sniper. A soldier came and talked to me in Arabic and said that I must confront him face to face if I was a man. He put his rifle behind his back and started to collect stones. I agreed because he was heading towards the youth and he still had his rifle on his back and the stones in his hands. The youth threw stones and he responded by throwing stones back. But as soon as I threw the first stone, I got shot from behind. I turned around, but I couldn’t see anyone behind me. The soldier [the one in front with the stones] could have come closer and arrested me, but he started to laugh out loud, turned around and walked away instead. The doctors estimated that the sniper who shot me was standing around ten meters away from me. It was an M16 bullet that penetrated my leg. The bullet didn’t even exit my body. I had to have two surgeries.

Following the injury I was depressed because I had to stay at home, away from people. Also sometimes people stared at me in a way that made me feel I had a disability. I couldn’t handle being both injured and pitied. I couldn’t set foot on the floor at the beginning but gradually I got better. Now I am able to stand and walk again. Returning to university was my biggest motivation.

I’m better off than those who can’t walk anymore. I’m so glad that I can walk again. Some people are psychologically devastated because

they have been told that their injury was very bad so they thought they couldn't walk again. My injury was bad as well, but I have managed to get better.

I think with these shootings they want to terrify us. The commander wants to challenge us and show us that he is capable of implementing his threats. The soldiers target youth because they don't want to see anyone standing in their way or throwing stones at them when they invade the camp. When you see that another guy lost his leg or now has a permanent disability, you will reconsider throwing stones at the soldiers because you don't want to lose your leg too."

ISRAELI INCURSION OF 9 AUGUST

Israeli occupying forces raided Dheisheh Refugee Camp on 9 August 2016 and arrested 48-year-old Nidal Abu Aker, a prominent resident who has spent over 14 years in Israeli prisons. During the raid, clashes erupted between youth from the camp and the soldiers. Seven youth were injured with live ammunition by the Israeli army, all of them in their legs.⁸⁴ The circumstances of the clashes and shootings were very similar to those in the two incursions described above. Eyewitness accounts provide supporting evidence regarding the excessive use of force via live ammunition during the course of the incursion.

One of the youth injured on 9 August was a 19-year-old resident of Dheisheh. He was shot in his left thigh, and the bullet perforated the femoral artery.⁸⁵ He was rushed to the hospital in a taxi, falling into a coma. He woke from the coma ten days later and remained in the hospital for several more days undergoing medical treatment.

ISRAELI INCURSION OF 26 AUGUST

On 26 August the Israeli occupying forces raided Dheisheh in the predawn hours, prompting confrontations with the local youth. During the clashes two youth from the camp were shot by the Israeli forces in their legs with live ammunition. The stated aim of the incursion was to raid and search the home of Mohammad al-Saifi, a Dheisheh resident imprisoned by Israel at the time

⁸⁴ Ma'an News Agency, *Israeli forces raid al-Duheisha refugee camp, injure 7 Palestinians with live fire*, 9 August 2016. Available at: <http://www.maannews.com/Content.aspx?id=772588>

⁸⁵ Middle East Eye, *Israeli army accused of West Bank 'shoot to cripple' campaign*, 2 September 2016. Available at: <http://www.middleeasteye.net/news/campaign-crutches-palestinian-youth-say-israeli-forces-are-targeting-their-knees-1844468281>

of the raid. Soldiers also broke into Ibdaa Cultural Center in order to occupy its roof, from which they shot live ammunition and tear gas at the youth of the camp. Eyewitness accounts provide supporting evidence regarding the use of live ammunition during the course of the incursion.

ISRAELI INCURSION OF 12 DECEMBER

While the Israeli forces continued raiding Dheisheh Camp after August 2016, the number of live ammunition injuries decreased in the camp until mid-December. During a military incursion into the camp on 12 December 2016, four Palestinian youth were shot with live ammunition by the Israeli army.⁸⁶ Medical reports confirmed that they were all shot in the lower extremities.

Israeli forces entered the camp at around 1:30 a.m. from three sides and penetrated several areas of the camp, although no arrests were made. Shortly after the incursion, clashes broke out between the youth and the Israeli forces. Camp residents threw stones and empty bottles at the soldiers, who responded with live ammunition and stun grenades, according to eyewitnesses.

“In the early morning of 12 December the clashes were very intense, they were really scary. The soldiers were shooting live ammunition; it was all live ammunition and nothing but. I remember wondering how many guys would be injured that night because the soldiers only used live ammunition. Only at the end of the clashes, just as the soldiers were leaving, did they use tear gas. I saw two youth injured with live ammunition. I didn’t see them get shot but I saw them in our home afterwards. They came from the main street. I was upstairs in my apartment but then I heard sounds and voices on the stairs so I went down and they were there. My home is really close to the main street. We gave them basic medical care until the ambulance came to take them to the hospital. During this time the clashes didn’t stop outside.”

*40-year old resident of Dheisheh;
interview on 19 January 2017*

Testimonies and available audiovisual evidence support the claim that the use of live ammunition by the Israeli forces was excessive and that the injuries of the four youth were unjustified. This intentional targeting of the lower extremities seems to fit within the ‘kneecapping’ policy implemented by the Israeli forces against Palestinian youth in the second half of 2016.

⁸⁶ Ma’an News Agency, *Israeli forces injure 4 Palestinian youths in Duheisha camp clashes*, 12 December 2016. Available at: <https://www.maannews.com/Content.aspx?id=774375>

A youth shot with live ammunition on that night provided an account of the circumstances surrounding his shooting, which lead to the conclusion that the use of live ammunition in this case was neither necessary nor proportional, making the use of lethal force illegal.

***Testimony:
18-year-old resident of Dheisheh
interview on 19 January 2017***

“On 12 December, the soldiers broke into the camp at around midnight, or this is what my friends told me. I arrived at the camp at around 1 a.m., I had just finished work and was on my way home. I wanted to buy something to eat and walked to al-Moghrabi [a supermarket opposite the main entrance of the camp]. There were some guys in the street who told me to be careful because there were some soldiers, but I didn’t see anything - nothing at all, no jeeps, no lights, and no soldiers on foot. As I started walking towards the supermarket I got shot from behind. I felt sudden pain, started yelling and fell to the ground. It was a ‘tutu’ bullet and they shot it from a gun with a silencer, as there was no sound. When I got injured I was around 20 meters away from the supermarket and they shot me from the building next to it, so the distance wasn’t that far, it was actually really close. The guys all came to me asking me what was wrong, and I told them there was something in my ankle. When they saw the injury they carried me to someone’s home for medical care. That’s when everyone found out that the soldiers were in the camp, because no one really knew for sure before I got injured, as they were hiding and there were no clashes whatsoever.

The soldiers were inside an empty building, on the last floor. After I got shot my friends told me that three Israeli jeeps came out from behind the supermarket and eight soldiers came out of the building, so the guys got trapped in between. The guys didn’t know what to do, some of them ran away and some got injured.

The bones in my ankle were shattered, so I won’t be able to walk for a long time. Also, the bullet is still inside me. The injury will need maybe three months to heal. I have to wait until they take off the cast and then start physical therapy so that I can walk normally again. Right now I can’t leave my home; I just sit here doing nothing. The one thing I think of is going back to my old self, going back to how I used to be and continuing my life normally, this is the only thing I’m waiting for.”

ISRAELI INCURSION OF 18 DECEMBER

The Israeli army raided Dheisheh again on the early morning of 18 December 2016. Two residents of the camp, Ahmad al-Saifi and Khalil al-Banna, were arrested during the incursion and clashes broke out soon after soldiers entered the camp.⁸⁷

At least four Palestinian youth were injured with live ammunition during the raid, one in the stomach, one in the hand and two in their legs. A fifth Palestinian was injured by shrapnel in the face.

THREATS BY THE ISRAELI FORCES

In the case of Dheisheh Camp, the injuries with live ammunition were accompanied by threats from the Israeli commander responsible for that area, known as 'Captain Nidal.' Captain Nidal threatened youth from Dheisheh before, during and after the raids, and during interrogations and arrests. He made statements about his intention to injure the youth of the camp, including: "I will make all the youth of the camp disabled," "I will have all of you walking with crutches and in wheelchairs," "I will make half of you disabled, and let the other half push the wheelchairs," and "I will make all of you stand in line at the ATM waiting for your disability subsidies and assistance." One of the injured youth told BADIL that Captain Nidal told him to tell his friends that "Nidal will make all of you disabled."

Moreover, a few days before the Islamic holiday, Eid al-Adha, which started on 12 September 2016, Captain Nidal called several youth and families from Dheisheh to intimidate them by threatening that he would kill someone in the refugee camp before the Eid celebration. Two weeks later, on 21 September, Captain Nidal called several youth from the camp again saying that "the time of shooting you in the legs is over." With this statement Captain Nidal clearly conveyed that threatening to kill or seriously injure youth in the camp was the current military policy in Dheisheh. He also confirmed what BADIL had previously termed as a 'kneecapping' policy by the Israeli occupying forces against Palestinian youth.⁸⁸

"Captain Nidal is targeting the lower extremities, mainly the knees

87 Ma'an News Agency, *Israeli forces detain 5 Palestinians from Bethlehem area*, 18 December 2016. Available at: <https://www.maannews.com/Content.aspx?id=774482>

88 For more information see relevant press releases by BADIL: <http://www.badil.org/en/publication/press-releases/77-2016/4629-pr-en-230816-37.html>; <http://www.badil.org/en/publication/press-releases/77-2016/4644-pr-en-260916-42.html>

and the ankles, because he knows those two areas of the body are sensitive and they take time to heal. I have a friend who got injured in his ankle seven months ago and he is still suffering. There is also another guy who got injured on the same night as me, and in his case the bullet hit his knee and is still there, they couldn't remove it. Captain Nidal doesn't want to kill us, he wants to paralyze us. He wants all the youth in camp to live in fear, regret and humiliation. All these attacks are part of enforcing those threats, making them a reality. Captain Nidal makes real threats because he does what he says, the threats become actions, reality. When I realized I was injured I only thought of that one friend of mine who got injured in his ankle seven months ago, I remembered his surgeries and how he suffered and only thought about how this is going to be me now."

*18-year-old resident of Dheisheh;
interview on 19 January 2017*

The Case of the al-Saifi Family

Bilal al-Saifi (27 years old) and his brother, both residents of Dheisheh, were arrested multiple times over the last few years by the Israeli occupying forces. After being released in July 2016, their home was raided on 13 November 2016 by a group of Israeli soldiers led by Captain Nidal. Bilal was summoned for interrogation with the Israeli forces at Checkpoint 300, north of Bethlehem, on 15 November. Bilal complied, and after waiting for several hours at the checkpoint he was asked to come back the following week as Captain Nidal was busy. Bilal went once again to the checkpoint and waited for hours. Again, he was not called for interrogation, and eventually decided to return home.

On his way back to Dheisheh, he received a call from the Israeli commander who told him, "Hello my brother, I am Captain Nidal. Where are you? And why didn't you come to the appointment?" Bilal explained he had done as requested and gone to the military checkpoint on two occasions and waited there for hours. Captain Nidal replied that he should then go to the Kalandia military checkpoint in Ramallah on 27 November 2016 for interrogation. He ordered him to use a route that is only for the use of Israeli military forces. Bilal refused the order, saying that it was a tactic to get him killed and that it was not normal to ask someone from Bethlehem to go for interrogation to a military checkpoint in Ramallah, and that he would go to the 300 checkpoint but not to Kalandia. Between October 2015 and December 2016, six Palestinians have been killed by Israeli forces on the walking path of Kalandia checkpoint, the last of whom was killed on 22 November 2016, around the

time of the phone call. Following the refusal, Captain Nidal proceeded to threaten Bilal and his family. He told him that if he did not go to Kalandia, he would “come to you this time and break your head and kill you.” He added that he would also kill his brothers and arrest his sister and his mother.

The severity of these threats must be assessed in the context of previous threats made by this Israeli commander to other residents of Dheisheh and the frequency with which they are followed through by the Israeli forces, as well threats made by other Israeli military and intelligence personnel to Palestinian youth across the West Bank. In July and August 2016, at least 17 youth from Dheisheh were shot in their legs following threats made by Captain Nidal to make the youth of the camp “all disabled” and “walking with crutches and in wheelchairs.”

Bilal was intimidated by these threats and after unsuccessfully seeking protection from different bodies, including the Red Cross and the Palestinian Authority, he decided not to go to the interrogation in Kalandia due to fear for his life. After this, Captain Nidal proceeded to call some of the neighbors of the al-Saify family in Dheisheh Camp, informing them that they would be responsible if they saw Bilal in his home in the camp and did not notify him. The neighbors immediately informed Bilal of their conversation with Captain Nidal and his intimidation. These calls not only constitute indirect threats to Bilal but amount to direct threats to the neighbors as well. The threats have had a considerable impact on Bilal and his family.

Testimony:

***Bilal al-Saifi, 29-year-old resident of Dheisheh
on 16 January 2017***

“These threats prevent me from having a normal life. Now I don't dare to leave Bethlehem, just out of fear of any military checkpoint or any Israeli soldier that might stop me and check my ID. They could put me in administrative detention without any actual reason other than the fact that Captain Nidal summoned me for interrogations, even though I went twice without meeting him, or because I started refusing his calls and because he wants to deal with me in a personal way. So I really feel I can't leave Bethlehem. I used to work in Ramallah, but now I can't go to Ramallah, neither for work nor to meet my brother's lawyer who is based there. Even visiting my own sister who lives in al-Walaja [village southwest of Bethlehem] is a risk. Why should visiting one's own sister be considered a risk in this world? This is exactly how I feel that my life is limited. Another thing is the fact that Bethlehem

is a closed and limited city; there are no job opportunities, the wages are hardly enough to support my family. Israel limits us politically, it limits us economically, and it suffocates us socially and attacks our culture and heritage...

I think the aim of these threats is to create a sense of instability in the Palestinian psyche. This instability can take you to places where you just can't carry out your life normally; it takes you to places where you're just exhausted physically and psychologically. I think this kind of targeting is not only for military purposes, to suppress resistance, but it also aims to break us socially, destroy our morals and way of doing things, our spirit, and to ethnically cleanse Palestinians.

I can see the effects of the threats on all of my family members from the youngest to the oldest. For example, my young nephew suffers a lot, as he keeps on waking up in the middle of the night yelling "Soldiers! Soldiers!" and he is only three years old. My sister is only 16 years old and it is not easy for her. She woke up at 3 a.m. one time to find soldiers in our home with their dogs. They forced her to leave the home and walk around two kilometers to the Artas military base [south of Bethlehem] with my 56-year-old mother and my brother, who has a disability. This brother, Hamza, has injuries in both of his legs and was walking using crutches. These threats are new and old. Some have already been carried out. My brothers were threatened with imprisonment and now they are. They threatened to demolish our home and then they did demolish part of it. So we take these threats very seriously. We have lost security and peace inside our home. Even the looks of my siblings whenever the soldiers come into Bethlehem, not only into the camp... they look at me as if they are saying goodbye, as if I'm going somewhere. My sister came to me and hugged me in the middle of the night because the Israeli army was in the camp and she told me: 'May God be with you and may God protect you.'

When they came to arrest my younger brother in September 2016⁸⁹ [the brother was not at home], they took my mother's and brothers' phones and started calling all the numbers in the phones. Of course, most of those numbers belong to people in the camp. They kept on calling people from 3 a.m. until 6 a.m., telling them that they will demolish the home of anyone who protects my brother, and to tell my brother to come and turn himself in, and that his mother and siblings were with the Israeli army. They stayed in our home until 7 a.m. The following night they broke into the home again and arrested him."

89 Ma'an News Agency, *Israeli forces detain 10 Palestinians, including journalist, in West Bank night raids*, 1 September 2016. Available at: <http://maannews.com/Content.aspx?id=772948>

ISRAELI VIOLATIONS

In the aforementioned incursions, the Israeli army repeatedly committed a wide range of serious violations of international law. The evidence collected and eyewitness testimonies show that the actions of the Israeli forces amount to excessive use of force, and completely disregard the principles of proportionality and necessity that regulate the use of live ammunition. Not only was live fire not used as a last resort, but the Israeli occupying forces' practices amount to "willfully causing great suffering or serious injury to body or health, not justified by military necessity and carried out unlawfully and wantonly," which is a grave breach of the Fourth Geneva Convention. This argument is supported by the threats made by Israeli commanders to the youth of Dheisheh, which show the existence of an Israeli policy of suppression and intentional injury against the youth of the camp. The explicit threats by Israeli army leadership show the willingness to commit criminal acts and raise significant concerns about the adherence of the Israeli forces to the tenets of international law.

The Israeli soldiers also used some of the residents as human shields, putting them in danger and thus violating Israel's obligation to protect Palestinian residents in the oPt. As a protected population, moreover, Palestinians should not be subjected to any measures of intimidation or threats.⁹⁰

It can be concluded that the Israeli forces have a policy of suppression of Palestinian youth in Dheisheh, which includes the practice of 'kneecapping.' The large number of injuries in the legs caused by live fire and the circumstances of the shootings demonstrate that the Israeli soldiers were not under imminent threat of death, or even serious injury. This is a violation of IHRL, which clearly specifies that live ammunition is an "exceptional and extreme measure" and that every effort should be made to exclude its use. Intentionally injuring youth in the lower extremities, as was the case during the incursions, shows blatant disregard by the Israeli occupying forces of the relevant international law provisions regulating the use of live ammunition.

90 Geneva Convention IV, Article 33; Geneva Convention IV, Article 27.

PHOTO ALBUM: DHEISHEH REFUGEE CAMP



Israeli occupying forces inside Dheisheh Refugee Camp. Images were taken by residents of the camp during raids in 2016 and 2017.



A group of injured youth from Dheisheh at Bethlehem Arab Society for Rehabilitation Hospital in 2016. On the right, an X-Ray image showing a bullet lodged in the knee of one of the youth.



Event organized in Dheisheh to welcome back injured youth released from the hospital.

Another group of injured youth from Dheisheh at Bethlehem Arab Society for Rehabilitation Hospital in 2016.



Screenshots of a video published by al-Mayadeen News: (<https://www.youtube.com/watch?v=u4SvZ3gihPc>).

Following BADIL's preliminary research into excessive use of force and intentional injury of Palestinian youth by Israeli forces, al-Mayadeen News decided to produce this video report on the topic. The short documentary covers different cases of excessive use of force across the West Bank, including Dheisheh Camp.

Case Study 3: TUQU' VILLAGE

Tuqu' is a Palestinian village located 12 kilometers southeast of Bethlehem, in the occupied West Bank. It has a population of around 11,000 inhabitants.⁹¹ In the immediate vicinity of the village and on its lands, Israel established a colony named Tekoa in 1977 and other colonies in the following years.⁹² The Israeli Defense Minister Avigdor Lieberman lives in an Israeli colony named Nokdim, only a few kilometers away from Tuqu'.⁹³ Since 1967, Israel has illegally confiscated 1,436 dunums of the lands of Tuqu' to establish three colonies and to build colonizer-only roads. During the Oslo Accords almost 75 percent of the lands of the town were classified as Area C, putting them under full Israeli military control.⁹⁴ On top of the colonization policies, Tuqu' has also witnessed regular incursions by the Israeli army in the past few years which very often lead to confrontations between the Israeli occupying forces and the residents of the village.

In 2016, as in many other areas in the occupied West Bank, Tuqu' experienced an increase in live ammunition injuries by the Israeli forces. According to the testimonies of the residents of Tuqu' and other information collected by BADIL, at least 18 youth were injured with live ammunition by the Israeli forces between January and October 2016. One of those injured with live ammunition in 2016 was Qusay al-Amoor, a 17-year-old resident of Tuqu', who was shot a second time on 16 January 2017 by the Israeli forces during an incursion and died from his wounds. Based on available audiovisual evidence and eyewitness testimonies, it can be concluded that his killing amounted to an extrajudicial killing. While BADIL was able to

91 PCBS, Localities in Bethlehem Governorate by Type of Locality and Population Estimates, 2007-2016. Available at: <http://www.pcbs.gov.ps/Portals/Rainbow/Documents/bethlm.htm>

92 ARIJ, Tuqu' Town Profile, 2010, 18. Available at: http://vprofile.arij.org/bethlehem/pdfs/VP/Tuqu'_tp_en.pdf

93 ARIJ, The Settlement of Tekoa, 2015, 2. Available at: http://www.poica.org/upload/Image/arij_aug15/report.pdf; PLO Negotiations Affairs Department, Israel's Colonization in Western Bethlehem – Updated, September 2014. Available at: <https://www.nad.ps/en/media-room/media-brief/israels-colonization-western-bethlehem-updated>

94 ARIJ, Tuqu' Town Profile, 2010, 17. Available at: http://vprofile.arij.org/bethlehem/pdfs/VP/Tuqu'_tp_en.pdf

obtain a list of the youth injured with live ammunition in Tuqu' between January and October 2016, their names or specific information regarding the circumstances of their injuries are not detailed below due to security concerns for the youth. However, different interviewees agreed that at least 18 youth had been injured with live ammunition, and at least six of them were shot in their legs.

INCURSIONS BY THE ISRAELI ARMY

On 10 January 2016, the Israeli occupying forces clashed with the residents of Tuqu' following an incursion into the village. Palestinian youth threw stones at the Israeli soldiers, who responded with live ammunition, rubber-coated steel bullets, tear gas, and stun grenades. During the confrontations, two youth were shot with live ammunition, one in the thigh and the other one in the foot.⁹⁵ Five others were also injured with rubber-coated bullets.

On Friday, 15 January 2016, another youth was shot in the leg with live ammunition by the Israeli soldiers in Tuqu' during confrontations between the residents and the Israeli occupying forces similar to the ones that took place five days prior.⁹⁶

On 4 February 2016 at least one other 17-year-old resident was injured with live ammunition in the leg during clashes following a raid into the village by the Israeli forces.⁹⁷ Throughout the clashes there were between 100 and 200 meters between the youth and the soldiers. There were a few dozen youth involved in clashes, according to testimonies collected by BADIL. Initially the soldiers came on foot, accompanied by a single jeep and multiple snipers. Shortly after the shooting took place Israeli reinforcements came. No tear gas or rubber bullets were used by the Israeli army during this incursion. According to eyewitness accounts, the youth were only using stones against the soldiers, and were not in possession of any weapons.

“The soldiers always invade our village and come in between the houses. They damage our homes quite often, and they break windows and doors. Once a [tear] gas canister broke our window and went inside the room where my little sister was sleeping and she suffered from excessive gas inhalation.

95 Ma'an News Agency, *7 shot by Israeli forces in clashes south of Bethlehem*, 10 January 2016. Available at: <http://maannews.com/Content.aspx?id=769744>

96 Ma'an News Agency, *5 Palestinians shot by Israeli forces during Friday demos*, 15 January 2016. Available at: <http://maannews.com/Content.aspx?id=769823>

97 Information collected by BADIL from testimonies.

On 4 February 2016, we were sitting around in the street when around 20 soldiers invaded the village by foot. They shot two live bullets at us but no one was hit by those bullets. I ran away and hid near my friend's house and sat down near the wall [of the house] with him. As I moved, a soldier saw me and shot me with a live ammunition bullet in my left leg. He was a sniper, not a regular soldier on the ground. Many eyewitnesses can confirm this.

The guys took me away as the soldiers started to throw stun grenades and shoot [tear] gas canisters. After that they left. There was no ambulance in the area, so my friends took me in a private car to the entrance of the village, and there we waited almost 30 minutes for the ambulance to arrive.

Now, months later, I am still unable to move my toes because the bullet destroyed the nerve endings in my leg. Since the injury I am depressed, tired and concerned, I feel I've become a burden to my family. I regret taking part in the clashes."

*17-year-old resident of Tuqu';
interview on 4 October 2016*

On 19 March 2016, during confrontations between the Israeli forces and residents of Tuqu', another two youth were shot with live ammunition in their legs. Clashes broke out after the Israeli army raided the village. The youth used stones and empty glass bottles to confront the Israeli army, which responded with live ammunition, tear gas and stun grenades.

THREATS FROM THE ISRAELI ARMY

The residents of Tuqu', like those of Dheisheh Camp and other Palestinian communities in the occupied West Bank, have also been subjected to threats by the Israeli forces. Various Israeli military officers threatened several residents of Tuqu' with physical harm and excessive use of force. According to different residents of the village, these threats often take place during night raids or arrests.

The 17-year-old youth that was shot on 4 February 2016 stated that the army officer responsible for his shooting questioned his friend about him during an interrogation.

"Once, one of my friends was summoned for interrogation by the Israeli intelligence to the Etzion police station (south of Bethlehem).

Sergeant Imad, the one responsible for the shootings and incursions in Tuqu', asked my friend if I was calmer now [after the shooting] or if I was still making trouble."

*17-year-old resident of Tuqu';
interview on 4 October 2016*

According to the interviewee, this interrogation took place after his shooting, which implies that at least part of the purpose of the shooting was to stop the youth from confronting the Israeli occupying forces when they enter the village, rather than stopping an immediate threat to life or serious injury, as required by international law.

Another 20-year-old resident of Tuqu' was subjected to threats by the Israeli soldiers during one of the night incursions to the village. The soldiers entered his home and talked to him in his bedroom. The family of the interviewee was not allowed to enter his bedroom during this conversation.

"The Israeli soldiers entered our village, around 40-50 of them, led by someone known as 'Captain Dawood.' This captain said to me that he came from Kalandia Camp, and that he was not planning to kill anyone or make them martyrs, but rather to make us all disabled. He also said that he will make us all use crutches.

I believe the goal of these incursions is to threaten the people and to make them afraid. They also distributed military leaflets⁹⁸ with threats to the residents of Tuqu'."

*20-year-old resident of Tuqu';
interview on 4 October 2016*

There was also another 21-year-old resident of Tuqu' who declared that he had been threatened by a 'Captain Imad' on several occasions. The first threat made against him was delivered initially to one of his friends who was being interrogated. During the interrogation Captain Imad told him, "Tell your friend that something will happen to him." The second threat was made directly to the interviewee. He recounted:⁹⁹

"They broke into my home, took my phone and Captain Imad told me that he would shoot me in the head if I kept doing what I was doing."

The threats of Captain Imad became harsher as time passed by.

98 BADIL Resource Center was unable to obtain or confirm the existence of these leaflets.

99 Based on information gathered via testimony by BADIL.

“Captain Imad summoned my father for interrogation and told him to pressure me to be silent and calm. The fourth time [they threatened me], they arrested and beat me, and I was in interrogation for six hours.

On 20 November 2015, I was shot during clashes in the village. The army that day was aggressive; the soldiers entered the center of the village and shot a lot of gas and live ammunition. There were also a lot of youth throwing stones. I was the only person who got injured that day; I was shot with a hollow-point bullet, a bullet that destroys the tissues while hitting the body. I was shot by a sniper who was on the roof of a high building in the village, around 400 meters away from me. No jeeps were around.

I was injured in my leg (thigh) and now my nervous system is damaged and I can't feel my feet anymore, I can't even move them. I am in a bad psychological state. Now I am unemployed; because of the injury I can't move normally, and can't sustain myself as before.

After I was injured, they arrested me again, and Captain Imad told me that I was responsible for all the clashes happening in the village and that he wanted me to work with him.”

*21-year-old resident of Tuqu’;
interview on 4 October 2016*

These kinds of threats are common practice during interrogations where the Israeli interrogators often try to make the Palestinians under arrest collaborators, and threaten them, directly or indirectly, if they do not agree. The purpose of these actions is not to prevent a dangerous attack or to maintain public order, but to induce fear among the Palestinian youth to suppress resistance, as well as to reaffirm Israeli control and dominance over them.

ISRAELI VIOLATIONS

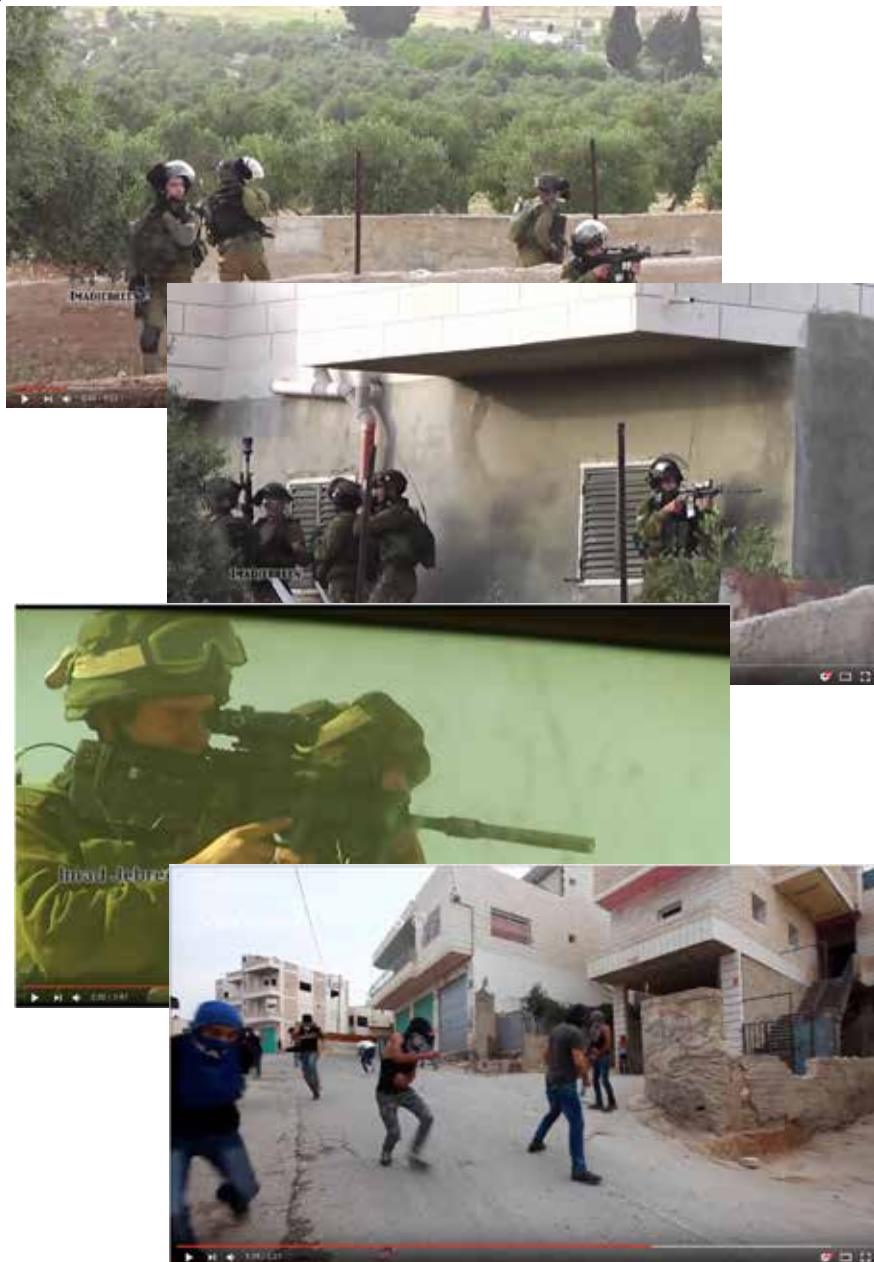
In the case of the live ammunition injuries in Tuqu’, the protestors did not have or use firearms or other lethal weapons, and the distance between them and the soldiers clearly shows that the requirements of proportionality and necessity were not met during the shootings of the two youth. Based on the evidence collected and eyewitness testimonies it can be concluded that Israeli forces did not use live fire as a measure of last resort in many

occasions, including the ones described above. Moreover, the threats made by different Israeli captains to the youth indicate that the use of excessive force is intentional and part of a systematic policy in Tuqu'. This conclusion is supported by the sharp increase in live ammunition injuries, especially in the lower extremities, in the village at the end of 2015 and during 2016. The Israeli occupying forces intentionally injured many youth, which is one of the most serious violations of international law. They also threatened and intimidated them, and destroyed some of the property Tuqu''s residents. These actions show complete disregard by the Israeli forces to the main provisions of both IHL and IHRL which regulate the use of force.

PHOTO ALBUM: FAWWAR REFUGEE CAMP



Screenshots of a video published on Youtube on 17 January 2017. (<https://www.youtube.com/watch?v=m7nVP7eYRF0>). The images show clashes between Israeli forces and Palestinian youth, and the extrajudicial killing of Qusay al-Amoor in the village of Tuqu', Bethlehem, January 2017.



Screenshots of a video published on Youtube on 19 October 2016, by Abdulrahman Younis. (<https://www.youtube.com/watch?v=UlrBSP1dD0c>). The images show incursions by Israeli forces in Tuqu' village.

PHYSICAL IMPACT OF 'KNEECAPPING'

A trauma doctor working at the emergency room of one of the main hospitals in Bethlehem provided his medical opinion on the recent increase of the use of live ammunition by the Israeli forces and the targeting of the knees.

"I believe that the targeting of the youth, the kneecapping, is systematic and intentional. There is no way that the shooting of 80 youth in the past three months in the same parts of the body is by chance. Most of these injuries were around the knee area, the rest were some centimeters above or below the knee, which shows that the knee is targeted. The knee is a major joint in the human body, and disabling the knee causes in most cases permanent disability or damage. The knee holds the weight of the human body, and it consists of multiple bones and ligaments. Any injury in the bones or ligaments can cause a permanent or long-term disability. In the short term, most of the youth who were injured need to continue coming back to the hospital, and they have problems going back to their normal lives as the majority still uses crutches. In the long term, unfortunately some of them will not be able to walk normally or will suffer from pain for the rest of their lives.

Although we had similar cases or injuries in the past, lately it has become very obvious that the Israeli forces are targeting the legs of the youth. We also believe that the soldiers who shoot these Palestinians have a good knowledge of anatomy, because they know exactly where to shoot to inflict the most pain and hit the most important organs. I saw a lot of injuries in the thigh area at the main artery, which makes it so hard to control the bleeding. In cases of kneecapping, the injury will most probably not cause death unless there was no proper medical assistance available, but for sure it will cause a disability.

In terms of the distance, it doesn't really matter if the youth were shot from a short or long distance away, it is very harmful in both cases.

Most of the bullets that we found in the bodies of the youth were the expanding type [hollow-point bullet], which is why we found a lot of shrapnel in the wounds. Rarely did we retrieve the whole bullet in the body or the knee. In the majority of the cases there was shrapnel, and each piece of shrapnel can cut nerves, tissues, ligaments or break bones. According to the official statistics, during the past period (July-October 2016), around 80 people were shot, 40-50 percent in the knee area, and the majority of them with the expanding kind of bullets. We noticed that these expanding bullets do more than just cut veins or ligaments, they destroy bones. We often find that the bones in the knee area are completely damaged. These bullets do not only cause bone fractures but completely damage the bones in a way that is hard to fix. Live ammunition in all its forms is very dangerous, but the bullets that we found in the injuries are mainly the expanding ones, which are more harmful and are more likely to cause permanent damage or disability.”

*Doctor at the Bethlehem Arab Society for Rehabilitation;
interview on 26 October 2016*

CONCLUDING REMARKS

All three case studies analyzed above highlight the broad range of serious violations of international law committed regularly by Israel in the West Bank. Not only is Israel not fulfilling its obligations as an occupying power, it is actively violating different provisions and safeguards of IHL, IHRL and international criminal law. As the occupying power, Israel has an obligation to protect the residents of the oPt, and is obliged to follow the provisions of the law enforcement paradigm when carrying out policing operations, which sanction the use of live ammunition only as a measure of last resort.

When it comes to the incursions and the large number of Palestinian youth injured during them, the common elements in all the injuries are the absence of necessity and proportionality for the use of live ammunition. Israeli forces treat any opposition or confrontation as a hostile action which is in contradiction to the law enforcement paradigm. However, while in some of the instances covered in this report the injured youth were throwing stones at the soldiers, no evidence was found that the youth or anyone else was posing an imminent threat to life that justified resorting to this quantity and level of force, which indicates the deliberate use of live ammunition to cause harm and serious injury. In these cases, Israel is not only responsible for committing individual acts that constitute grave breaches of international law such as the ones described in this report, but also of carrying out those acts in a systematic and widespread manner that amounts to an official policy. The main goal of this excessive use of live ammunition goes beyond mitigating security threats or restoring public order. Rather, it is to establish an intricate system of domination and control over Palestinians in the West Bank.

The large number of injuries to the legs described in the three case studies, the targeting of the knee area, the numerous instances of youth being shot while posing no threat to life, and the cases of youth shot from behind, along with the seriousness of the injuries, all support the conclusion that Israeli forces were shooting with the aim of causing severe injury to Palestinian youth, rather than to stop the confrontations or an immediate threat. In all the incursions covered in this report, the Israeli occupying forces completely disregarded the principles of necessity and proportionality that regulate the use of force, and that establish the requirements for the legality of its

use. Since the use of live ammunition by the Israeli forces in the majority of incidents described in this report was neither necessary nor proportional, it can be concluded that the Israeli forces willfully caused great suffering and serious injury to Palestinian youth, without there being a justification or military necessity.

The Rome Statute of the International Criminal Court declares the aforementioned grave breach a war crime, together with other serious violations including; employing bullets which expand or flatten easily in the human body, and committing outrages upon personal dignity, in particular, humiliating and degrading treatment. The Rome Statute also includes a list of acts that are considered crimes against humanity “when committed as part of a widespread or systematic attack directed against any civilian population.” This list includes inhumane acts of a similar nature intentionally causing great suffering, or serious injury to body or to mental or physical health.¹⁰⁰

The Basic Principles dictate that it is the responsibility of the Israeli forces to equip and train soldiers adequately so as to increase the threshold of necessity, this is, so that live ammunition is used in very limited circumstances.¹⁰¹ Therefore, Israel is required by international law to have “well-trained and well-equipped units dedicated to crowd control and non-lethal use of force.”¹⁰² There is ample evidence that demonstrates that Israeli soldiers are equipped and trained, and know how to use non-lethal methods. These methods include; tear gas, stun grenades, rubber bullets and skunk water. Furthermore, in August 2015, the Israeli forces issued “new instructions that clarify the manner in which the forces are to deal with threats that do not constitute a clear and immediate danger to their lives.”¹⁰³ These temporary amendments to the rules of engagement were specifically for soldiers who were deployed in the West Bank. Most ironically, and just before the rise in lethal use of force began, these new rules specifically forbade “troops from shooting at a terror suspect’s lower extremities during an arrest.”¹⁰⁴

Even though the Israeli forces are trained and equipped to deal with confrontations without resorting to live ammunition unless necessary, the intentional lack of use of non-lethal weaponry and equipment, as well as sufficient protective gear appropriate for these types of law enforcement

100 Rome Statute of the International Criminal Court, Article 7.

101 Basic Principles, *op. cit.*, General Provision 2.

102 Anthony H. Cordesman, *Peace and War: The Arab-Israeli Military Balance Enters the 21st Century*. Available at: goo.gl/WSP4XA

103 Noam Amire, and Maariv Hashavua, “Israeli Combat Troops React Angrily to New Rules of Engagement in West Bank,” *Jerusalem Post*, 12 August 2015. Retrieved from: <http://www.jpost.com/Arab-Israeli-Conflict/Israel-tightens-rules-of-engagement-for-combat-troops-in-West-Bank-411868>

104 Ibid.

operations, demonstrates a clear violation of Israel's obligations regarding the application of the regulations as per the law enforcement paradigm's rules on use of force. Meaning, the intentional disregard for use of and/or lack of adequate equipment by the soldiers themselves, and/or their commanding officers constitutes a deliberate choice to ignore international law and even their own rules of engagement. It is imperative to note that the Israeli occupying forces as a whole are actively engaged and responsible for this illegal activity. This is clearly demonstrated by their lack of application of accountability measures to punish those responsible for carrying out illegal activity in the line of duty. The consequences of this have far reaching and grave implications not only for Palestinians, but also for all of the countries that seek and receive tactical training from the Israeli forces.¹⁰⁵

It is also very important to emphasize the illegality of the threats made by the Israeli forces to the youth, as these threats are recognized as illegal under IHL. Moreover, such threats are made all the more serious by the numerous instances of Palestinians shot in the second half of 2016 by the Israeli forces and the permanent injuries they suffer as a consequence. These threats and actions are not accidental or isolated incidents, but rather result from a systematic Israeli military policy aimed at suppressing resistance by fostering an atmosphere of fear, punishing anyone who opposes the Israeli regime, terrorizing Palestinian youth, and causing permanent injuries and damage to their physical and mental well-being.

Similar cases can be found in refugee camps such as Aida, al-Arroub, Kalandia, Am'ari and the West Bank in general, which prove that these incidents amount to a systematic policy and an implementation of the threats by the Israeli occupying forces. These Israeli policies and practices do not only impact those sustaining the injuries as a result of the excessive use of force but also the community as a whole. The consequences of these actions are far-reaching on the Palestinian population; the subsequent fear of persecution stifles the Palestinian right to protest, expression and resistance. Naturally the suppression of resistance makes it easier for the occupying power to continue implementing its regime of colonization and forcible transfer, by exacerbating an already coercive environment.

105 For example, in October 2015, the Israeli forces hosted officers representing the military of seven countries from all over the world to engage in training and military exercises taught by the Israeli army. Retrieved from: <http://www.timesofisrael.com/idf-officers-training-course-goes-global/>. According to Amnesty International, the Baltimore Police Department received extensive training from Israeli police and military. This Israeli-trained police department was later the subject of a report by the US Department of Justice that condemned the proven "widespread constitutional violations, discriminatory enforcement, and culture of retaliation" which has had lethal consequences on the Black community in Baltimore. Retrieved from: <http://blog.amnestyusa.org/middle-east/with-whom-are-many-u-s-police-departments-training-with-a-chronic-human-rights-violator-israel/>

Since the injuries covered in this report are caused intentionally, they are also preventable. This is why it is of extreme urgency that the international community - third party states and UN mandated agencies - act immediately to put an end to these ongoing violations of international law and the overall climate of impunity under which Israeli forces and its officials operate. In the absence of a fair domestic judicial system, it is the responsibility of the international community to prosecute these crimes, and an obligation in the case of war crimes and crimes against humanity. As long as the international community fails to honor their obligations and put an end to the ongoing Israeli policies which violate the most basic rights of Palestinians, including excessive use of force, extrajudicial killings, and willfully causing great suffering or serious injury and threats, Palestinians will have no choice but to continue living under this coercive system of domination and violence or to leave their homes.

This case study aims to analyze the recent increase in the use of live ammunition and its correlation to a wider policy of suppression of resistance by examining three locations that were severely affected by excessive use of force: al-Fawwar Refugee Camp in Hebron, Dheisheh Refugee Camp in Bethlehem, and Tuqu' Village in Bethlehem.

