



Al Mezan Center For Human Rights

Special Report on

**The IOF Investigation into the Killing of Reuters' Cameraman
Shanaa: Accountability or Impunity?**



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The IOF Investigation into the Killing of Reuters' Cameraman Shanaa: Accountability or Impunity?

The Israeli Occupation Forces (IOF) announced the end of its investigation into the killing of Reuters' cameraman, Fadel Shanaa. According to the IOF, an investigation was opened a few hours after the incident occurred on Wednesday, 16 April 2008, and lasted for four months. At that time, Al Mezan Center reported its belief that the IOF deliberately targeted Shanaa. While the Center called for a prompt investigation into the incident and awaited its results, Al Mezan continued its own field investigation and collected information and evidence related to the IOF attack that killed the cameraman and three other Palestinians; including two children. Al Mezan field workers found shrapnel of the two flechette shells which targeted Reuters' crew on the site. They also met with eyewitnesses, including journalists. The Center's investigations found that the IOF deliberately targeted Shanaa.

The attack:

On Wednesday 16 April 2008, at approximately 6:45am, the IOF troops backed by military vehicles and tanks penetrated the Gaza Valley village (also called Johr Ad-Dik village), located north to the middle-Gaza refugee camp of Al Bureij, from the eastern borderline. At approximately 8:30am, a tank fired an artillery shell that hit a house in the village, injuring one woman and an elderly man.

Military vehicles and tanks penetrated deep into the area and finally took positions near Al Shuhadaa cemetery in the village. Tens of children from the nearby An-Nusairat and Al Bureij refugee camps and Al Mughraka village arrived at the scene to watch the military vehicles and tanks, which were also backed by at least one drone and one helicopter gunship. Later, at approximately 4:25pm, a helicopter gunship launched several missiles towards a crowd of people near Al Ihsan mosque in southern Gaza Valley village, killing and injuring many of them. Ambulances arrived at the scene to evacuate the injured, and press crews were seen arriving near the bombing area. At approximately 5:35pm, a Reuters' crew and a group of civilians were directly targeted by artillery shells. As a result, Reuters' cameraman, Fadel Shanaa, and three civilians were killed. Human rights investigations and Reuters called for launching an investigation.

The investigations:

Reuters called on the Israeli military to open an investigation into the incident. The IOF announced the opening of an investigation. On Wednesday, 13 August 2008, four months later, the IOF announced that its investigations found that the conduct of its forces "was not out of line with procedure. None of the implicated soldiers will stand trial".¹ With this conclusion, the IOF attempts to justify the attack as allegedly falling under legitimate military necessity. Israeli government spokesman, Mark Regev, stated that investigations showed that the marks on the vehicle of the cameraman, Fadel Shanaa, and on his bulletproof vest were not clear for the tank crew. Moreover, in a letter sent to Reuters on Tuesday, 12 August 2008, the military advocate general,

¹ See <http://www.ynetnews.com/articles/0,7340,L-3582197,00.html>.

Avi Mandelblit², stated that the soldiers could not be sure if Shanaa was moving a camera or a weapon; therefore, they had an excuse to launch the artillery shell that killed him.

The Center's investigations are based on evidence as well as testimonies collected from eyewitnesses, including a journalist who was accompanying Shanaa, another journalist who was very close to him, and a farmer who was working in a field close to the incursion area. The latter was watching what was going on around his land fearing it may be bulldozed.

Cross analysis of the testimonies shows that all witnesses saw the press crews at the scene covering the IOF incursion in the eastern part of the village. Journalists gathered in the main street leading to the village where the IOF operated. Shanaa was accompanied by his assistant, 25-year-old Wafa Abu Mezyed of Reuters. They pulled over a grey jeep, which was clearly marked 'TV' and 'Reuters'. They set up the camera tripod to take photos of the IOF tanks penetrating in the village. At approximately 5:35pm, they were directly targeted by an artillery shell. Mohammed Al Baba, of AFP, and Ashraf Abu Amra and Wissam Nassar, of Ma'an News Agency, immediately moved towards them. All the testimonies agree that when they were about ten meters from the spot targeted by the shell, a second shell hit Shanaa and the crowd directly once again. In addition to Shanaa, three civilians were killed in this shelling, including two children who were walking near Reuters' jeep. The children were 13-year-old Ghassan Khalid Abu Ataiwi, from Al Mughraqa village, 14-year-old Ahmed Arif Farajallah, from An-Nusairat Camp. The third was 20-year-old Khalil Ismail Dughmush.

The Center's field workers collected pieces of shrapnel from the shelling site. They found out that there were pieces of flechette shrapnel dispersed all over the place. The shrapnel examination showed that it was made of nails having the form of small metal darts with a sharp-pointed tip and a tail with several vanes. A dart was 3.5cm in length and 2mm in diameter.

According to the reported medical examination of Shanaa's body and the forensic report, Shanaa was admitted to Al Shifa hospital's reception as a dead body. External medical examination showed there were lacerated wounds in the chest, neck, abdomen and lower limbs. X-ray images showed that there were pieces of flechette shrapnel all over his body and fractions in his neck vertebrae and thoracic cage.

It is well known that the IOF has, and uses, the most advanced surveillance equipment in the world. Each area that comes under IOF's attack is always covered by drones that provide accurate information and images. This is in addition to the vision systems that the IOF tanks are equipped with. Therefore, distinguishing a TV camera from a weapon is easy given the high-tech surveillance equipment available for the IOF. Furthermore, photos showed that Shanaa was putting on a clear mark referring to his nature of work. There were also press marks on all sides of his jeep which can hardly be ignored as they were standing in an open area. If the soldiers could clearly see that

² Haaretz: <http://www.haaretz.com/hasen/spages/1011266.html>
YNet: <http://www.ynetnews.com/articles/0,7340,L-3582197,00.html>

he was wearing a bulletproof vest, as Mendelblit says in his report, they could also see the clear TV sign on both his vest and vehicle.

This crime supports the view of Palestinian human rights organizations that the IOF routinely behave in a way that does not observe the outstanding obligations under the International Humanitarian Law (IHL). It deliberately violates its basic principles of distinction and proportionality. The soldiers ignored the fact that there were eight children near to Shanaa and considered the firing of flechette bombs that could kill every one of them simply justified based on mere doubts, according to IOF's own investigation. Although the first shell killed Shanaa and a number of children, a second shell was directly fired on the

same spot, which clearly indicates that the IOF had the intention to inflict maximum casualties among them and confirm their killing. This is also proven by the use of flechette bombs, which release hundreds of darts in all directions upon explosion and injure anyone in the area. Needless to say that using this type of bomb is prohibited by international law.



Photo of shrapnel collected from the bombing site

The context:

It is noteworthy that the IOF killed 12 Palestinians during the military operation on the same day of killing Shanaa, including 8 children under the age of 17. They were identified as:

- Sofian Ahmed Ahmed Muhammad Hamdan, 41, from Al Bureij Camp;
- Mahmoud Ahmed Ahmed Muhammad Hamdan, 45, from Al Bureij Camp;
- Tareq Fareed Jamil Abu Taqiya, 16, from An-Nusairat Camp;
- Abdallah Maher Mohsen Abu Khalil, 16, from An-Nusairat Camp;
- Islam Hossam Ali Al Essawi, 16, from An-Nusairat Camp;
- Ghassan Khaled Salama Abu Etewi, 13, from Al Mughraqa village;
- Ahmed Aref Faraj Allah Faraj Allah, 14, from An-Nusairat Camp;
- Khalil Ismail Khalil Doghmosh, 20, from Gaza City;
- Fadi Jamal Taleb Matran, 22, from An-Nusairat Camp;
- Talha Hani Fathi Abu Ali, 15, from An-Nusairat Camp;
- Bayan Samir Mahmoud Al Khaldi, 14, from Al Bureij Camp; and
- Muhammad Muhammad Abdel Khaleq Al Assar, 15.

This is in addition to damages in civilian property, including the destruction of five houses.

Conclusions:

With the strongest terms, Al Mezan Center for Human Rights reiterates its condemnation of the killing of the cameraman Fadel Shanaa and twelve civilians by the IOF. The Center's investigations make us believe beyond any doubts that the IOF has deliberately killed Shanaa; a practice that helps spread terror among journalists

who cover IOF incursions and provide evidence on its flagrant disregard of civilian life and property in violation of the IHL.

The Center completely rejects the excuses stated by the Israeli government spokesman and military advocate general's report, which try to justify the soldiers' conduct and spare them any proceedings for violating the IHL and killing of innocent civilians. Such infamous, continued attempts to provide impunity for soldiers who commit criminal acts are unacceptable and must stop. The IOF assumes full responsibility for the conduct of its soldiers and, given the sophisticated capabilities at its disposal, it cannot resort to excuses as being unable to identify targets in an open field. IOF's capabilities and expertise could simply have helped the soldiers identify that Shanaa and his jeep, and also the many children near them, were civilians; especially as they were spotted in an open area in the day light where visibility cannot be better.

Furthermore, Al Mezan finds no reason for using the internationally banned flechette bombs that killed Shanaa and a large number of civilians.

Therefore, Al Mezan Center expresses its refusal of the results of the IOF investigation into the killing of Shanaa. It believes that the investigation was politicized and aimed to protect the IOF soldiers against prosecution. The Center also believes that any professional and impartial investigation would implicate the soldiers in willful killing of civilians; i.e. a war crime. It will also reveal that the decision to target Shanaa was taken by senior military officials, and not by soldiers in the field.

The Center re-emphasizes that the killing of Fadel Shanaa constitutes a gross violation of human rights principles, especially article (19) of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to which it is a party. It is a violation of the IHL principles which accord civilian journalists the same protection granted to civilians in time of armed conflict and occupation. According to article (79) of the Additional Protocol I to Geneva Conventions of 1949, *'Journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians... They shall be protected as such under the Conventions and this Protocol...'*

Al Mezan Center for Human Rights calls on the international community to intervene to protect civilians and journalists in the OPT. It also calls for initiating an impartial, international investigation into the killing of Shanaa and other civilians by the IOF. The Center also emphasizes Reuters' responsibility to seek the prosecution of those involved in the unlawful murder of its journalist. If this is impossible to achieve before the Israeli courts, justice should be sought before other courts which accept criminal proceedings where the likelihood of perpetration of war crimes is involved, including when those are committed outside the national territory of their states.

Al Mezan Center calls on the International Federation of Journalists and international, regional, and Arab press agencies to express their solidarity and take actions to achieve justice in the case of killing the journalist Shanaa. The Center calls on them to exert pressure on their governments to act upon their obligations under the IHL and seek to prosecute the Israeli soldiers who perpetrated this crime and those who ordered them.

End

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