

TRAPPED AND PUNISHED

The Gaza Civilian Population under Operation Protective Edge

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel,



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FIDH field mission,
October 2014,
Beit Hanoun.
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I. Methodology

The 50-day military offensive launched by Israeli occupying forces against the Gaza Strip in July and August 2014 was marked by serious breaches of treaty-based and customary international humanitarian law and of international human rights law.

FIDH firmly condemned the violations of international humanitarian and human rights law committed by all parties during the offensive code-named “Operation Protective Edge”.

At the request of its member organisations and in order to further document the different types of violations against civilians, FIDH mandated, at the end of October 2014, a delegation to conduct a fact-finding mission in Gaza. The delegation was composed of the Legal Advisor for the Belgian League for Human Rights and FIDH’s Permanent Representative to the European Union. The team was granted access to Gaza and, with the aid of FIDH member organisations Al Mezan, Al Haq and Palestinian Center for Human Rights, was able to meet with several victims and conduct field visits to Rafah, Khan Younis, Beit Hanoun, and Gaza City, including Shuja’iyya. A number of meetings were also organised with international organisations and local authorities.

FIDH was the first and only international human rights organisation to be granted permission to enter Gaza after last summer’s offensive.

This fact-finding mission was followed by a high level mission to Israel and the Occupied Palestinian Territory composed of the FIDH President, Karim Lahidji, FIDH Vice-President Shawan Jabarin, and the FIDH Head of the Maghreb and Middle East office, Marie Camberlin, to meet with the Palestinian authorities and members of civil society. The political mission was supposed to include a visit to Gaza, which was made impossible by the delayed authorization for entrance.

During its meetings with the Palestinian authorities, notably with the President of the Palestinian Authority, Mahmoud Abbas, FIDH discussed the challenges faced by the Palestinian government in seeking to strengthen the rule of law, as well as its international commitments, by carrying out reforms needed at the national level. FIDH particularly emphasised the importance of Palestine granting the International Criminal Court jurisdiction over recent events and ratifying the Rome Statute.

This report will focus on examining certain crimes committed by Israeli forces during Operation Protective Edge in Gaza in the summer of 2014. It is based on testimonies collected during field visits, as well as numerous reports by third parties, particularly those of FIDH member organisations, international organisations and other NGOs. This evidence is interpreted through the framework of the Rome Statute of the International Criminal Court, in light of the recently opened preliminary examination into the situation in Palestine. Therefore, potential crimes are herein qualified under ICC legal norms for individual criminal responsibility. This interpretation is, however, without prejudice to parties’ responsibility under treaty-based and customary international humanitarian law, and this report does not intend to provide a

comprehensive legal analysis of the actions carried out in June-August 2014. For a full legal analysis of Operation Protective Edge within an IHL framework, please consult, for example, the 2015 report authored by Al Haq, “Divide and Conquer: A Legal Analysis of Israel’s 2014 offensive against the Gaza Strip”.

FIDH would like to thank its member organisations for their support and information sharing before, during and after the mission.

II. Aim of the report

The following sections will examine attacks committed by Israeli forces during Operation Protective Edge in Gaza. In particular, the following incidents will be highlighted:

- Indiscriminate attacks on civilians and their residences;
- Attacks on medical facilities, transport and personnel;
- Attacks on structures providing shelter to internally displaced populations;
- Attacks on objects indispensable for civilian survival.

Evidence indicates that by launching both indiscriminate and direct attacks against civilians and civilian objects, launching attacks disproportionate to any concrete military advantage, deliberately attacking medical services and refusing access to humanitarian relief, among other acts, the Israeli army violated certain fundamental principles of international humanitarian law (IHL) applicable to the conduct of hostilities. These include the following (as defined by the ICRC):

Distinction: *“The parties to the conflict must at all times distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must not be directed against civilians.”*¹ Distinction must also be made between military and civilian objects (including houses, infrastructure, hospitals, places of worship, etc.): *“The parties to the conflict must at all times distinguish between civilian objects and military objectives. Attacks may only be directed against military objectives. Attacks must not be directed against civilian objects.”*²

Proportionality: *“Launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited.”*³

Precaution: *“In the conduct of military operations, constant care must be taken to spare the civilian population, civilians and civilian objects. All feasible precautions must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.”*⁴

From the evidence documented during the mission, this report also qualifies these violations of international humanitarian and human rights law committed during the operation as potential war crimes and crimes against humanity, according to Articles 7 and 8 of the Statute of the International Criminal Court (ICC). Ratified by 123 States, the Statute includes definitions of serious international crimes generally recognized as codifications of customary law.

On 1 January 2015, Palestine filed a declaration under Article 12(3) of the Rome Statute of the International Criminal Court, granting the ICC jurisdiction over crimes committed in the

1. International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law*, 2005, Volume I: Rules, Rule 1.

2. *Ibidem*, Rule 7.

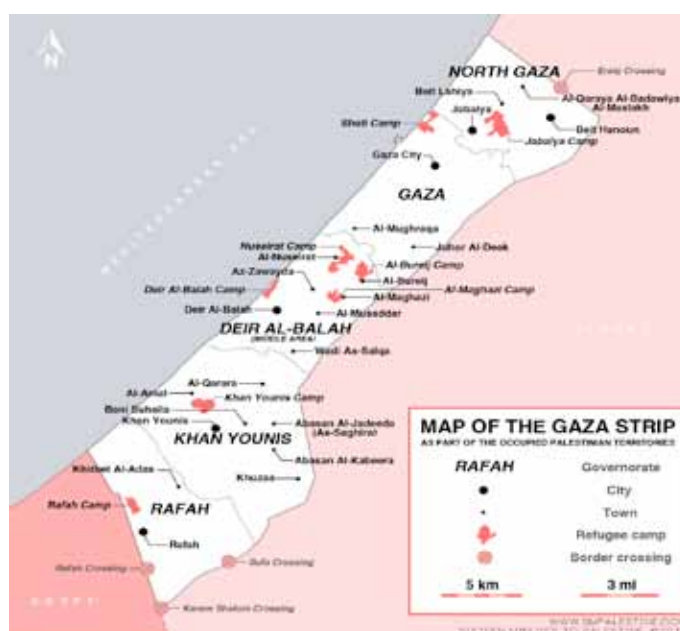
3. *Ibid.*, Rule 14.

4. *Ibid.*, Rule 15.

occupied Palestinian territory from 13 June 2014 onwards. On 2 January 2015, Palestine ratified the Rome Statute. The jurisdiction granted under the 12(3) declaration includes crimes committed in the Gaza Strip during Operation Protective Edge. Individuals of any nationality who commit genocide, crimes against humanity or war crimes on occupied Palestinian territory may be held criminally liable by the International Criminal Court. On 16 January 2015, the Prosecutor of the International Criminal Court opened a preliminary examination into the situation in Palestine.

III. The Protective Edge Operation: Overview

The UN Office for the Coordination of Humanitarian Affairs (OCHA) has stated that hostilities in the occupied Palestinian territory in the summer of 2014 came “*against a backdrop of a significant deterioration in the living conditions in the Gaza Strip since mid-2013, following the shutdown of the illegal tunnels with Egypt. This exacerbated an already fragile situation generated by the Israeli blockade, imposed since June 2007*”, having the effect of strangling Gaza in mid-2014⁵. In June 2014 rockets and mortars fired by Palestinian armed groups at southern Israel intensified, alongside an increase in Israeli air strikes⁶. Tensions further increased following the disappearance and killing of three Israeli youths in the southern West Bank on 12 June – killings that the Israeli government attributed to Hamas⁷. On 7 July 2014, the Israeli army launched a military operation code-named “Protective Edge” in the Gaza Strip. Following on from several weeks of escalation, the operation had the stated objectives of preventing Palestinian rockets from firing on southern Israel and destroying the military infrastructure of Hamas and other armed groups⁸.



Overall assessments of Operation Protective Edge have been unequivocal: “The Operation Protective Edge, which was launched the 7th of July 2014 and lasted for 51 days until 26 August, is described as the deadliest and most destructive escalation since the start of the Israeli occupation in 1967.”⁹

5. OCHA, Gaza Initial Rapid Assessment, 9 September 2014, available at: http://www.ochaopt.org/documents/gaza_mira_report_9september.pdf.

6. *Ibid.*

7. *Ibid.*

8. *Ibid.*

9. OCHA, The Monthly Humanitarian Bulletin | June – August 2014, 3 October 2014, available at: http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_10_03_english.pdf.

The hostilities can be broken down into three phases: a period of air, land and naval strikes between 7 and 16 July; a ground operation by Israeli forces entering the Gaza Strip from 17 July to 5 August, accompanied by continuing air strikes; and a period of alternating ceasefires and military strikes until an indefinite ceasefire came into effect on 26 August.¹⁰

• **From 7 to 16 July 2014**

From the outset, the UN denounced the indiscriminate firing of rockets by armed groups from Gaza and Israeli attacks on civilians and civilian objects in violation of the international humanitarian law principle of distinction.¹¹ The intensity of shelling, the number of deaths and injuries among the Palestinian civilian population and the extent of infrastructural damage continued to increase throughout the military operation. The first Israeli death is reported on 15 July.¹² The heaviest and most severe bombing since the beginning of ‘Operation Protective Edge’ is reported to have occurred on the night of 15 July and morning of 16 July.¹³ On 16 July four boys aged 10 to 11 were struck and killed by an Israeli missile strike whilst playing football on a beach in Gaza city.¹⁴ OCHA documented one death and six injuries on the Israeli side on these dates. By contrast, OCHA counted **214** Palestinian fatalities, of whom at least **77** percent were civilians.¹⁵ Moreover, at least **1,438** Palestinians were injured and around **2,174** houses, **33** schools, **43** mosques, an ambulance centre, **16** NGO offices, **39** fishing boats and **4** hospitals were destroyed or damaged in various localities from the north to the south of the Gaza Strip.¹⁶

• **From 17 July to 5 August 2014**

On the 17 July, following reports by Israel of a failed attack by a Palestinian armed cell accessing southern Israel through a tunnel, the Israeli authorities announced a ground offensive.¹⁷ Heightened fear led tens of thousands of people throughout the Gaza territory to begin fleeing their homes amidst bombardments.¹⁸ From 19 July, operations expanded into some of the most built-up and densely populated areas in the territory. Humanitarian agencies became unable to deliver supplies, UNRWA installations were forced to close because they were becoming unsafe, and the difficulties of opening new shelters were denounced. Repeated attacks on shelters,

10. OCHA, The Monthly Humanitarian Bulletin | June – August 2014, 3 October 2014, available at: http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_10_03_english.pdf.

11. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 11 July 2014, 15:00 hrs), 11 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_11_07_2014.pdf.

12. OCHA, Gaza emergency situation report (as of 10 July 2014, 15:00 hrs), 10 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_10_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 16 July 2014, 15:00 hrs), 17 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_17_07_2014.pdf.

13. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 16 July 2014, 15:00 hrs), 17 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_17_07_2014.pdf.

14. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 17 July 2014, 15:00 hrs), 18 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_17_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 16 July 2014, 15:00 hrs), 17 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_17_07_2014.pdf.

15. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 16 July 2014, 15:00 hrs), 17 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_17_07_2014.pdf.

16. Al Mezan Center for Human Rights, ‘Death Toll Rises to 210 as IOF Intensify Attacks on Gaza, More Arbitrary Warnings Spread Panic but Offer No Safe Shelters for Civilians,’ 16 July 2014, available at: <http://www.mezan.org/en/a.php?id=19238>.

17. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 19 July 2014, 15:00 hrs), 20 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_20_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 17 July 2014, 15:00 hrs), 18 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_17_07_2014.pdf.

18. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 18 July 2014, 15:00 hrs), 19 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_19_07_2014.pdf.

hospitals, health facilities and ambulances by Israeli forces were reported.¹⁹ The destruction of basic infrastructure deprived entire populations of electricity and sufficient water, exposing civilians to serious sanitary and food shortages, threatening their survival.²⁰

All daily reports issued by OCHA during the conflict outlined the ever-growing intensity of Israeli operations. While the first days of the conflict exhibited a daily average of over 27 fatalities²¹, OCHA's daily updates saw that number rise to the hundreds, mostly civilians.²² Reports denounced Palestinian civilian deaths, which had also occurred in shelters, when fleeing or when attempting to benefit from humanitarian pauses.²³ The massacre of civilians trapped in zones like Shiju'ya (Eastern Gaza City), Rafah (south of the Gaza Strip) and Kuza'a in Eastern Khan Younis (south of the Gaza Strip) was reported. It became common to read: *"The last 24 hours have been the deadliest recorded since the start of the Gaza emergency"*²⁴,

19. So for Shuji'ya in eastern Gaza city between 19–24 July; Khuza'a in eastern Khan Younis in southern Gaza Strip between 23–24 July; Rafah between 1–2 August. Beit Hanoun, in the north of the Gaza Strip, was also concerned.

20. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 5 August 2014, 08:00 hrs), 5 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_05_08_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 18 July 2014, 15:00 hrs), 19 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_19_07_2014.pdf; 'B'Tselem, Israeli human rights organizations B'Tselem and Yesh Din: Israel is unwilling to investigate harm caused to Palestinians,' 5 September 2014, available at: http://www.btselem.org/press_releases/20140905_failure_to_investigate.

21. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 14 July 2014, 15:00 hrs), 14 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_15_07_2014.pdf.

22. See notably OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 20 July 2014, 15:00 hrs), 21 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_21_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 21 July 2014, 15:00 hrs), 22 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_22_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 30 July 2014, 15:00 hrs), 31 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_31_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 2 August 2014, 15:00 hrs), 3 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_03_08_2014.pdf; and more broadly the daily reports made during the conflict.

23. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 20 July 2014, 15:00 hrs), 21 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_21_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 21 July 2014, 15:00 hrs), 22 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_22_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 23 July 2014, 15:00 hrs), 24 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_24_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 24 July 2014, 15:00 hrs), 25 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_25_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 25 July 2014, 15:00 hrs), 26 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_26_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 26 July 2014, 15:00 hrs), 27 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_27_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 30 July 2014, 15:00 hrs), 31 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_31_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 2 August 2014, 15:00 hrs), 3 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_03_08_2014.pdf; Al Mezan Center for Human Rights, 'Despite Humanitarian Truce, IOF Target Medical Personnel and Ambulances and Obstruct their Movement, Five Ambulance Personnel Killed by IOF since the Start of OPE,' 26 July 2014, available at: http://www.mezan.org/en/details.php?id=19275&ddname=IOF&id_dept=9&id2=9&p=center; Al Mezan Center for Human Rights, 'Humanitarian Truce Reveals Vast Destruction in Several Areas in Gaza, Al Mezan: Death Toll Reaches 966 Palestinians: 77% Civilian; 210 Children; and 114 Women,' 26 July 2014, available at: http://www.mezan.org/en/details.php?id=19276&ddname=IOF&id_dept=9&id2=9&p=center; Al Mezan Center for Human Rights, 'IOF War Crimes in Gaza: 758 Killed including 173 Children and 92 Women Artillery Attack on IDP Shelters Kills and Injures Scores, Al Mezan: International Community Failure to Protect Civilians Scandalous,' 24 July 2014, available at: http://www.mezan.org/en/details.php?id=19270&ddname=IOF&id_dept=9&id2=9&p=center; PCHR, 'On the 27th Day of the Israeli Offensive: Rafah Under Israeli Fire; War Crimes Committed against Palestinian Civilians; Complete Families Annihilated,' 3 August 2014, available at: <http://www.pchrgaza.org/portal/en/index.php?view=article&catid=36%3Apc-hrpressreleases&id=10561%3Aon-the-27th-day-of-the-israeli-offensive-rafah-under-israeli-fire-war-crimes-committed-against-palestinian-civilians-complete-families->.

24. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 20 July 2014, 15:00 hrs), 21 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_21_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 15 July 2014, 15:00 hrs), 16 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_16_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency

and it became clear that the force with which Gaza was hit exceeded that of the two previous conflicts, namely Operation Cast Lead in 2008/2009 and “Operation Pillar of Defense” in 2012.²⁵

By 4 August, total Israeli fatalities since 7 July reached **67**, including **64** soldiers, **2** civilians and **one** foreign national.²⁶ Total Palestinian fatalities since 7 July jumped to an estimated **1,814** – an exponential increase compared to the period before the ground incursion (eight times greater). **85 per cent of these casualties are believed to have been civilian.**²⁷ In addition, 520,000 people, nearly 30 per cent of Gaza’s population, had been displaced;²⁸ at least 7,198 people injured, including at least 1,984 children and 1,350 women;²⁹ and 79 schools, 123 mosques, 36 NGO offices, 50 fishing boats, and 137 vehicles were destroyed or damaged;³⁰ including 8 hospitals, 6 of which rendered out of service.³¹

• **From 5 August to 26 August 2014**

From 4 to 19 August, there were several ceasefires and humanitarian pauses.³² The conflict resumed for the last time on 19 of August. It led to renewed Palestinian fatalities and significant property damage, including to factories, fields, greenhouses, commercial stores and businesses, public facilities, mosques, a sporting club, a health center, schools, shelters, and water facilities like sewage water pumps and water-wells.³³ Shelling at this time was often described as less

Situation Report (as of 29 July 2014, 15:00 hrs), 30 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_30_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 2 August 2014, 15:00 hrs), 3 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_03_08_2014.pdf.

25. As to 19 July “That day, the proportion of civilians among the fatalities is above that recorded during the ‘Operation Pillar of Defense’”(cf. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 19 July 2014, 15:00 hrs), 20 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_20_07_2014.pdf); as to 20 July “The number of IDPs hosted by UNRWA has exceeded the equivalent figure during the three-week long ‘Cast Lead operation’ in 2008/09 (51,000 people), which was the deadliest escalation recorded in Gaza since 1967.” (*Ibid.*) On the 28 July: That is over 10 per cent of the total Gazan population and more than triple those sheltered by UNRWA at the peak of the three-week long Israeli Operation ‘Cast Lead’ in 2008/09.

26. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 5 August 2014, 08:00 hrs), 5 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_05_08_2014.pdf.

27. *Ibid.*

28. *Ibid.*

29. Al Mezan Center for Human Rights, ‘IOF War Crimes Expose International Complacency, Al Mezan Warns about further Crimes in Rafah as Death Rises to 1,828; 81.8% Civilians; 413 Children and 229 Women,’ 4 August 2014, available at: <http://www.mezan.org/en/a.php?id=19303>.

30. *Ibid.*

31. *Ibid.*

32. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 5 August 2014, 08:00 hrs), 5 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_05_08_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 6 August 2014, 08:00 hrs), 6 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_06_08_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 13 August 2014, 08:00 hrs), 13 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_13_08_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 15 August 2014, 08:00 hrs), 15 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_15_08_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 19 August 2014, 08:00 hrs), 19 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_19_08_2014.pdf.

33. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 22 August 2014, 08:00 hrs), 22 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_22_08_2014.pdf; Al Mezan Center for Human Rights, ‘Al Mezan Condemns the IOF’s Deliberate Killing of Civilians in Gaza and Calls on International Community to End Its Shameful Silence, Death Toll in Gaza is 2,090; 76.9% Civilians; 494 Children and 287 Women,’ 21 August 2014, available at: http://www.mezan.org/en/details.php?id=19326&ddname=IOF&id2=9&id_dept=9&p=center; Al Mezan Center for Human Rights, ‘International Community Must Act Now to Stop Violations of International Law and Aid Civilians in Gaza, 2,106 Killed; 500 Children and 287 Women since 7 July,’ 22 August 2014, available at: <http://www.mezan.org/en/a.php?id=19328>; Al Mezan Center for Human Rights, ‘IOF Grave Violations Continue to Kill and Maim Civilians in Gaza Al Mezan: 2,114 Killed; 502 Children and 289 Women since 7 July,’ 23 August 2014, available at: <http://www.mezan.org/en/a.php?id=19329>; Al Mezan Center for Human Rights, ‘IOF Unlawful Attacks on High-Rise Buildings and Civilian Objects Continue, Al Mezan: 2,153 Killed; 518 Children and 295 Women since 7 July,’ 26 August 2014, available at: http://www.mezan.org/en/details.php?id=19477&ddname=IOF&id_dept=9&id2=9&p=center; Al Mezan Center for Human Rights, ‘Al Mezan Calls for Accountability for War Crimes and an End to Israel’s Occupation of the

intense than during the ground offensive;³⁴ however, during the very last days of the conflict, air strikes were also directed at areas that had previously been less targeted (like the west of the Gaza Strip)³⁵. According to the UN, “*although the bombing of residential structures has been a characteristic of the military offensive to date*”, the last days of Operation Protective Edge witnessed what it qualified as “*a new Israeli trend of bombing high-rise buildings*”³⁶. The destruction of multiple-storey housing structures multiplied the magnitude of both the physical and psychological suffering of civilians.³⁷ In some cases, such structures were composed of over 50-60 apartments with hundreds of people living within, including many who had been displaced and were seeking shelter with their relatives.

The open-ceasefire convened for 26 August put an official end to the deadliest offensive launched against Gaza since 1967. In total, during the entire period, 5,830 missiles were used in 4,028 air raids, plus 16,507 artillery and tank projectiles and 3,494 naval shells were fired at targets in the Gaza Strip.³⁸ During the same period, Palestinian armed groups fired 4,844 rockets and 1,734 mortars at Israel.³⁹ The UN estimates the cumulative death toll among Palestinians during the conflict to be 2,256, of whom at least 1,568 are believed to have been civilians, including 538 children and 306 women.⁴⁰ Cumulative Israeli fatalities were 71, of whom 66 were soldiers, one security coordinator, and four civilians, including one child. One foreign national civilian was also killed in Israel.⁴¹ By the end of August, the UN reported over 18,000 housing units to have been destroyed or severely damaged in Gaza, leaving approximately 108,000 Palestinian people homeless. It added that the vast damage to infrastructure essential for social and economic sustenance “*was also unprecedented, leaving hundreds of thousands of people without adequate services, including electricity, clean water and quality healthcare*”⁴².

Occupied Palestinian Territory, Death Toll Rises to 2,168: 521 Children and 297 Women Since 7 July 2014, 27 August 2014, available at: http://www.mezan.org/en/details.php?id=19514&ddname=IOF&id_dept=9&id2=9&p=center.

34. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 21 August 2014, 08:00 hrs), 21 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_21_08_2014.pdf.

35. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 22 August 2014, 08:00 hrs), 22 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_22_08_2014.pdf.

36. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 25 August 2014, 08:00 hrs), 25 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_25_08_2014.pdf.

37. By 22 August, the UN reported that the number of internally displaced persons (IDPs) continued to rise, with at least 460,000 persons – more than a quarter of the entire Palestinian population of Gaza – now displaced (OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 22 August 2014, 08:00 hrs), 22 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_22_08_2014.pdf). On 25 August the number of internally displaced persons (IDPs) has risen to 475,000. Over 280,000 were taking shelter in UNRWA schools (OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 25 August 2014, 08:00 hrs), 25 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_25_08_2014.pdf).

38. OCHA, The Monthly Humanitarian Bulletin | June – August 2014, 3 October 2014, available at: http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_10_03_english.pdf.

39. OCHA, The Monthly Humanitarian Bulletin | June – August 2014, 3 October 2014, available at: http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_10_03_english.pdf.

40. OCHA, Protection of Civilians Weekly Report | 21–27 October 2014, 31 October 2014, available at: http://www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_report_2014_10_31_english.pdf.

41. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 4 September 2014, 08:00 hrs), 4 September 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_04_09_2014.pdf.

42. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 4 September 2014, 08:00 hrs), 4 September 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_04_09_2014.pdf; OCHA, GAZA INITIAL RAPID ASSESSMENT, 9 September 2014, available at: http://www.ochaopt.org/documents/gaza_mira_report_9september.pdf.

IV. Examination of the crimes committed

A. Civilians: the first victims of the conflict

Civilian deaths and the extensive destruction of homes occasioned by Operation Protective Edge have been well documented, and characterise the nature of the 2014 conflict.⁴³

PCHR and Al Mezan report that over 58 per cent of confirmed Palestinian fatalities were a direct consequence of **large-scale, deliberate and systematic military attacks against family homes** during Israel's military operation. An estimated 18,000 housing units (including those directly targeted or rendered collateral damage) were either destroyed or severely damaged over two months.⁴⁴ As a consequence of attacks on entire residential units, at least 142 Palestinian families lost three or more family members in the same incident, totalling 739 fatalities.⁴⁵ As of 27 August 2014, Al Mezan's documentation unit reported that at least 999 family members had been killed inside their homes.⁴⁶

This created a situation described by a United Nations Relief and Works Agency spokesperson as a '*man-made homelessness crisis on an epic scale*'.⁴⁷

B'Tselem has highlighted that:

*"Homes were bombed every day, more and more civilians were killed and entire families were obliterated. Even compared to previous bouts of fighting in Gaza, the number and frequency of incidents this time around was unusually high, with many people killed each time, mostly civilians who did not take part in the hostilities [...] Airstrikes on homes formed a major part of the policy implemented by the Israeli military from the start of this bout of fighting in Gaza. The scope of these airstrikes as well as the length of time that they persisted indicate that they were likely authorized by senior military and political officials, and were also granted advance sanction by the Military Advocate General Corps and the Ministry of Justice."*⁴⁸

This section will examine trends in attacks on civilian residential areas and the inconsistent and inadequate use of warnings. This "warning system," rather than effectively notifying civil-

43. Al Mezan Center for Human Rights, Lawyers for Palestinian Human Rights (LPHR), Complaint submitted to the United Nations concerning large-scale destruction and damage to family houses in the Gaza Strip with associated profound loss of life and injury to Palestinian residents, during Israel's military operation between 7 July 2014 and 26 August 2014, 30 September 2014, available at: <http://lphr.org.uk/wp-content/uploads/Complaint-Submission-to-UNSR-Gaza2.pdf>.

44. OCHA, Gaza Initial Rapid Assessment, 9 September 2014, available at: http://www.ochaopt.org/documents/gaza_mira_report_9september.pdf.

45. *Ibid.*

46. Lawyers for Palestinian Human Rights (LPHR), Al Mezan Center for Human Rights, 30 September 2014, *op. cit.*

47. *Ibid.*

48. B'Tselem, 'Death Foretold: The inevitable outcome of bombing homes and inhabited areas in Gaza,' 11 August 2014, available at: http://www.btselem.org/gaza_strip/20140811_a_death_foretold.

ians of up-coming attacks, instilled an atmosphere of confusion and terror among the civilian population and resulted in massive internal displacement and further loss of civilian life.

1. Israel's advanced warning policy: a policy that did not provide protection to civilians

IHL requires that, where circumstances permit, warring parties must give “*effective advance warning*” of attacks that may affect the civilian population.⁴⁹ To be effective, such warnings must give civilians adequate time to evacuate and escape to a safer area. Those who fail to evacuate after receiving such a warning continue to receive the full protection of international law by virtue of their civilian status. As such, attacking forces are still obliged to take all feasible precautions to avoid loss of civilian life and property. This includes cancelling an attack when it becomes apparent that the target is civilian or that the civilian loss would be disproportionate to the expected military gain.⁵⁰

The density of the civilian population in Gaza would seem to necessitate a consistent warning policy in order to avoid disproportionate effects on civilian life.

The key principle behind the issuance of a warning is that civilians are not a legitimate target in time of war. The only purpose such a warning may have is to protect civilians by serving to minimise civilian casualties. The use of warnings for other purposes, such as spreading fear or forcible displacement, is prohibited.⁵¹ This report submits that Israel's warning policy in Gaza during the summer of 2014 was not only ineffectively implemented, but was also conceived and applied so inconsistently that instead of protecting civilians, it was used to spread confusion and terror among the civilian population.

Israel used two warning techniques: general warnings covering entire zones and neighbourhoods, and individualized warnings directed at single infrastructures and properties intended for targeting.

a) Mass warnings via leaflets, texts, telephone calls, issued as threats

i) Policy of widespread warnings

Within the very first days of the conflict, multiple communities in the **North, Center and South** of the territory received orders to evacuate in the form of leaflets and pre-recorded telephone warnings.⁵² Thereafter, automated telephone calls, texts, and leaflets dropped from planes were reportedly dropped regularly on more and more neighbourhoods (e.g. Beit Hanoun, Beit Lahiya, Zeitoun, Shuja'iyya, Rafah, Khan Younis etc). This displaced increasing numbers of inhabitants of Gaza.⁵³ Prior to entering Gaza and launching its ground offensive on 17 July,

49. ICRC Study on Customary International Humanitarian Law, Rule 20.

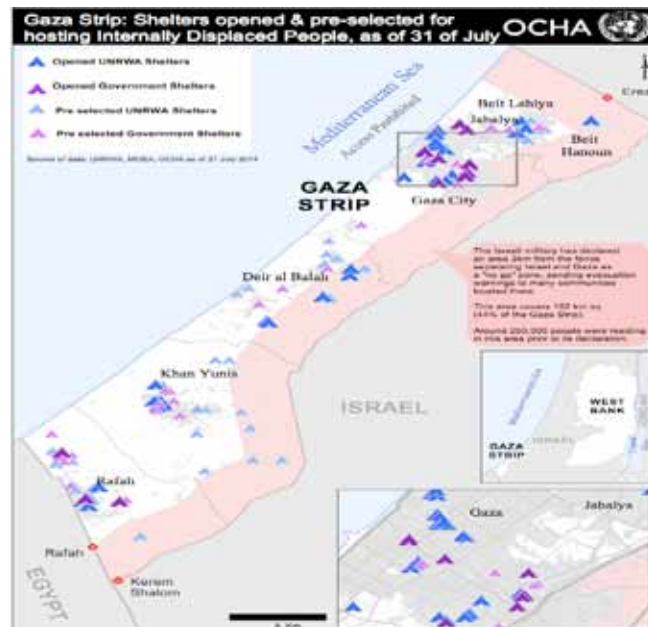
50. HRW, Q&A: 2014 Hostilities between Israel and Hamas, 3 August 2014, available at: <http://www.hrw.org/news/2014/08/03/qa-2014-hostilities-between-israel-and-hamas>.

51. ICR Study on Customary International Humanitarian Law, Rule 2.

52. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 11 July 2014, 15:00 hrs), 11 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_11_07_2014.pdf.

53. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 13 July 2014, 15:00 hrs), 14 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_14_07_2014.pdf. See also, Al Mezan Center for Human Rights, 'Houses Destroyed over the Heads of Residents and Evacuation Orders in North Gaza, 13 July 2014: 167 killed, including 34 children and 27 women; over 1001 injured, including 227 children and 183 women; and 869 houses destroyed, including 187 completely by day seven.' Available at: <http://www.mezan.org/en/a.php?id=19221>;

the Israeli military further announced that the “no-go zone” along Gaza’s perimeter fence would be expanded from 300 meters to 3 kilometers from the fence, over the entire length of the Gaza Strip.⁵⁴



By 20 July, around half of the territory of Gaza had been advised to evacuate, with about 30 per cent of the population having done so. According OCHA⁵⁵, “the areas where civilians have been warned to leave in the past few days, together with the 3 kilometers-wide strip along the perimeter fence, which was declared as a ‘No-Go zone’, cover approximately 43 per cent of Gaza”⁵⁶.

ii) Mass Warnings issued as threats and failing to disclose information required to secure safety

The IDF website discloses how warnings should be written.⁵⁷ The following undated warning was most likely issued during the 2012 Pillar of Defense operation:⁵⁸ “To the residents of Sheikh Aj-lin, Tel Al-Hwa, Rimal South, Zeitoun, Sjaiya, Turkeman and Sajiya Jadida: For your safety, you are required to evacuate your residences immediately and move towards the central Gaza city, via Al-Khara, Jma’at Al Dul Al Arabia, Al Aqsa Al Qudsiya, Um Alaimoun, Salah A-din, Al-Maqsurra, Hal’s Mjdad. In the central Gaza city, you are required to stay between the areas of Salah A-din from the west, Amar Al-Muchtar from the north, Al-Nasser from the east and Al-Quds St. from the south.”⁵⁹

Public Committee Against Torture in Israel (PCATI), Joint letter-Gaza evacuation, 15 July 2014, available at: <http://www.stoptorture.org.il/en/node/2017>; Mondoweiss, ‘Israeli military destroyed el-Wafa hospital even though it knew there were no weapons inside,’ 19 July 2014, available at: <http://mondoweiss.net/2014/07/military-destroyed-hospital>.

54. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 20 July 2014, 15:00 hrs), 21 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_21_07_2014.pdf.

55. *Ibid.*

56. *Ibid.*

57. <http://www.idf.il/1153-17694-en/Dover.aspx>.

58. This text appears to have been published in November 2012.

59. <http://www.idf.il/1153-17694-en/Dover.aspx>.

This type of detailed warning should be compared to testimonies from and warnings characterizing Operation Protective Edge.

Al Mezan and PCATI were informed that in the first days of Operation Protective Edge, civilians received recorded phone calls and leaflets requesting them to evacuate their houses instantly. These messages said that Israeli forces would execute a military operation in the area, and guided recipients to areas where they were supposed to be safe.⁶⁰ Muhammad, who left his home in Beit Layia on 13 July, stated that: *“For three days now, Israel has been warning us, and dozens of other families, to evacuate the area. They claim there is ‘terrorist infrastructure’ here. They call on the phone and say: ‘The Israel Defense Forces are giving you a warning, to protect your lives, and asking you to evacuate your home because it will be massively bombed in order to destroy the terrorist infrastructure.’ They ordered us to leave through al-Fallujah Street and stay away from a-Salatin Street. From Friday (11 July) to this morning (13 July), we got 14 phone calls like that. The last was this morning, at 7:00 A.M. They gave us extra time until 12:00 noon, as a last warning.”*⁶¹

Compared to messages provided during previous hostilities, these warnings were presented in a more threatening fashion, as they promised massive bombardment of an undefined alleged terrorist infrastructure. Nevertheless, they did provide information on secure passages to safety.

On 16 July, the *Guardian* website published the text of a warning leaflet that the media outlet had received from the Israeli military as purportedly “dropped over several areas of Gaza”. The leaflets were used as threats, ordering residents of entire neighbourhoods to evacuate without delay if they valued their lives and providing only a vague indication of where to evacuate:

*“In spite of the ceasefire, Hamas and other terror organizations continued to fire rockets, therefore it is the intention of the IDF to carry out aerial strikes against terror sites and operatives in Shuja’iyya and Zeitoun. A high volume of rocket fire at Israel has originated in this area. For your own safety, you are requested to vacate from your residence immediately and head towards Gaza City by Wednesday morning, July 16, 2014, at 08:00am (05:00 GMT). The IDF does not want to harm you, and your families. The evacuation is for your own safety. You should not return to the premises until further notice. Whoever disregards these instructions and fails to evacuate immediately, endangers their own lives, as well as those of their families.”*⁶²

Numerous entities subsequently denounced the fact that such leaflets did nothing more than threaten the population of the Gaza strip with imminent attacks on unspecified alleged terrorists targets, without giving precise information on where to seek sanctuary. On 20 July for

60. Public Committee Against Torture in Israel (PCATI), Joint letter-Gaza evacuation, 15 July 2014, available at: <http://www.stoptorture.org.il/en/node/2017>.

61. B’Tselem, ‘Muhamad Abu Haloub, 75, a retired Education Ministry director, describes how he and his family evacuated their Beit Lahiya home on military orders,’ 20 July 2014, available at: http://www.btselem.org/testimonies/20140720_abu_halub.

62. Regarding the said ceasefire, OCHA stated that, “On 15 July: An Egyptian proposal calling on Israel and Palestinian armed groups to cease all hostilities in the Gaza Strip was accepted by the Israeli security cabinet this morning. The proposal has apparently not been accepted by Hamas who continued to fire rockets at Israel after the time set in the Egyptian proposal for ending hostilities. The Israeli decision was followed by a lull in the bombardment of Gaza, which resumed in the afternoon following the firing of a reported 40 rockets at Israel.” (OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 15 July 2014, 15:00 hrs), 16 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_16_07_2014.pdf).

example, Al Mezan reported that warnings had been issued to hundreds of thousands people to evacuate their homes but that they “lacked specificity or safe routes or areas civilians might resort to; especially as houses and buildings continued to be under attack”⁶³.

On 23 July, Al Mezan reported that new leaflets were dropped on Rafah “instructing people to leave ‘**any areas from which attacks on Israel are launched**’ and threatening further attacks, including on houses”⁶⁴. Al Mezan later reported that, “according to leaflets dropped by the IOF on the Gaza Strip, the population are warned that houses would be attacked and are urged, for their own safety, to prevent their property from being used to fire at Israel”⁶⁵.

One leaflet, written in Arabic, was read out by a resident:

*“The Israeli Defence Forces will react against any terrorist operation, will attack the infrastructure of the Hamas terrorist group and other terrorist groups. We will continue to prosecute the Hamas leadership, which is taking shelter underground. They denounce the needs of the residents of the Strip, who want a calm life. The Israeli Defence Forces will act against any terrorist military building that they use for their attacks against Israel. All the houses around terrorist operations will be targeted. For your safety, stop the terrorist groups from using your properties. Stay away from all the sites in which the terrorist groups are active. You have to evacuate from all sites from which terrorist activities are being launched.”*⁶⁶

Telephone calls were also used to issue “warnings”. HRW reported one such call, which had been received by a resident of South Gaza whose family home was destroyed on 10 July, killing seven relatives. The resident stated that the call gave no information on imminence of attack or the specific target, stating simply “*Stay away from Qassam*”. HRW was told by UN officials that an estimated “*several hundred thousand Gaza residents have randomly received similar automated phone calls since July 7, which warn residents not to store weapons in their homes, blame Hamas for the conflict, and state that the Israeli military does not want to harm civilians*”⁶⁷.

Messages such as those provided above, in simply denouncing terrorist activities and threatening consequences for civilians, cannot be considered warnings genuinely aimed at protecting civilians. Alongside with the unreliability, inadequacy and ineffectiveness characterizing the warnings targeting specific homes and infrastructure, the Israeli warning policy can be seen as serving to spread despair, terror and confusion among the population.

63. Al Mezan Center for Human Rights, ‘As IOF Ground Invasion Ensues, Numbers of Palestinians Killed Climbs to 330 including 76 Children and 36 Women, 20 Children Killed since Yesterday and over 50,000 People Displaced,’ 19 July 2014, available at: http://www.mezan.org/en/details.php?id=19249&ddname=IOF&id_dept=9&id2=9&p=center.

64. Al Mezan Center for Human Rights, ‘IOF Commits more Grave Violations of International Law by Targeting Civilian Objects in Gaza Al Mezan: 2,127 Killed; 512 Children and 293 Women since 7 July,’ 24 August 2014, available at: http://www.mezan.org/en/details.php?id=19348&ddname=IOF&id_dept=9&id2=9&p=center.

65. Al Mezan Center for Human Rights, ‘IOF Unlawful Attacks on High-Rise Buildings and Civilian Objects Continue, Al Mezan: 2,153 Killed; 518 Children and 295 Women since 7 July,’ 26 August 2014, available at: http://www.mezan.org/en/details.php?id=19477&ddname=IOF&id_dept=9&id2=9&p=center.

66. ITN Source, ‘GAZA: Israeli aircraft drops leaflets warning Gaza residents to avoid militants,’ 23 August 2014, available at: <http://www.itnsource.com/en/shotlist/RTV/2014/08/23/RTV230814004/?v=1>.

67. HRW, ‘Israel/Palestine: Unlawful Israeli Airstrikes Kill Civilians,’ 16 July 2014, available at: <http://www.hrw.org/news/2014/07/15/israelpalestine-unlawful-israeli-airstrikes-kill-civilians>.

b) Targeted warnings for specific infrastructure and properties: unreliable and ineffective practices

In practice, Israeli warning practices were unreliable, rendering it impossible for civilians to know how to avoid attacks. Warnings were erratic: sometimes they were issued, sometimes they were not; sometimes they were effective, sometimes ineffective. They also occasionally provided inaccurate and misleading information.

i) Attacks without advance warnings

Numerous reports outline that Israeli assaults were often undertaken without prior warning.⁶⁸ Many cases of civilian death and injury reviewed were characterized by a lack of advance warning.⁶⁹ The presence or absence of armed group members does not appear to have influenced the Israeli forces' warning practices. Houses with alleged links (sometimes vague or doubtful) to armed groups, were reportedly sometimes warned, whilst in other instances they were not.⁷⁰ In the eight cases studied by Amnesty International in which multi-storey buildings were destroyed, Amnesty reports that no single prior warning was received by inhabitants.⁷¹ Moreover, half of these buildings are reported to have had no links to armed group members or activities. Of the 111 fatalities occasioned by these attacks, at least 104 have been identified as civilian.⁷² The practice of inconsistent warning issuance irrespective of any link to armed groups rendered civilians unable to assess their level of risk of attack. Testimonies have shown how civilians were killed as a result of direct hits or collateral damage suffered due to their mistaken belief that they were not at risk because they had not been notified of an attack, were not in the presence of an armed group members and were not in a shelling zone:

*"I heard two loud explosions. They were really close to my house and the whole area shook. There was no warning fire beforehand like there was in other cases [...] I can't express it in words. No one in the neighbourhood ever imagined that family homes would be attacked for no reason, with no prior warning. Killing entire families is a massive injustice."*⁷³

68. Al Mezan Center for Human Rights, 'IOF Commit More Massacres in the Gaza Strip, 506 Killed including 131 Children and 64 Women as the Civilian Casualties Continue to Rise, Al Mezan Deplores the Failure of International Community to Protect Civilians,' 21 July 2014, available at: http://www.mezan.org/en/details.php?id=19254&ddname=IOF&id_dept=9&id2=9&p=center; Lawyers for Palestinian Human Rights (LPHR), Al Mezan Center for Human Rights, 30 September 2014, *op. cit.*; Amnesty International, 'Israeli forces displayed 'callous indifference' in deadly attacks on family homes in Gaza,' 5 November 2014, available at: <http://www.amnesty.org/en/news/israeli-forces-displayed-callous-indifference-deadly-attacks-family-homes-gaza-2014-11-05>.

69. Jutta Bachmann, Laurel Baldwin-Ragaven, Hans Petter Hougen, Jennifer Leaning, Karen Kelly, Önder Özkalipci, Louis Reynolds, Alicia Vacas, *Findings of an independent, medical fact-finding mission, Gaza, 2014*, available at: https://gazahealthattack.files.wordpress.com/2015/01/gazareport_eng.pdf. Among them, one study based on victim interviews reports that, "Of the 68 patients interviewed, only 5 reported prior warnings".

70. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 21 July 2014, 15:00 hrs), 22 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_22_07_2014.pdf; Al Mezan Center for Human Rights, 'IOF Grave Violations Continue to Kill and Maim Civilians in Gaza Al Mezan: 2,114 Killed; 502 Children and 289 Women since 7 July', 23 August 2014, available at: <http://www.mezan.org/en/a.php?id=19329>; Amnesty International, 15 March 2014, *op. cit.*; Al Mezan, 'In Criminal Attacks, IOF Bombard Two Houses Killing 11 and Wounding 23, Raising Toll to 35 Killed and 297 Wounded, Al Mezan: Perpetrators Must Be Prosecuted and Civilians Protected,' 9 July 2014, available at: http://www.mezan.org/en/details.php?id=19197&ddname=IOFid2=9id_dept=9p=center; Lawyers for Palestinian Human Rights (LPHR), Al Mezan Center for Human Rights, 30 September 2014, *op. cit.*; HRW, "Palestine/Israel: Indiscriminate Palestinian Rocket Attacks, Israeli Airstrikes on Homes Appear to be Collective Punishment," 9 July 2014, available at: <http://www.hrw.org/news/2014/07/09/palestineisrael-indiscriminate-palestinian-rocket-attacks>.

71. Amnesty International, "Families under the Rubble: Israeli attacks on inhabited homes", 15 March 2014, available at: <http://www.amnesty.org/en/library/asset/MDE15/032/2014/en/613926df-68c4-47bb-b587-00975f014e4b/mde150322014en.pdf>.

72. Amnesty International, 15 March 2014, *op. cit.*

73. B'Tselem, "Testimonies, Sa'eed al-Hadad relates bombing of al-Batsh home in Gaza City with no prior warning,

“It was quiet. The bombings hadn’t reached our area and we couldn’t hear any airplanes close by... At around 5:30 A.M., I was woken by two loud explosions. The whole house shook and some walls collapsed. Soon after we got to the hospital, the doctors told us that Rawida had died. The missile landed in an open space close to our home, about ten meters from the room my mother and Rawida were in. The room was heavily damaged. I still don’t know why our home was bombed. The area that was bombed is farmland. I don’t understand why farmland would be bombed.”⁷⁴

For the others, when some of the residents may have had link to armed group, attacks targeted entire residences, not individuals. This led survivors to question:

“The missile fell on my family with no warning. I assume they wanted to hit ‘Abd al-Hafez, but what did the rest of the family do wrong? Why did they kill an entire family?”⁷⁵

ii) The lack of effectiveness of advance warnings

The warning practices of the Israeli forces, rather than providing protection, further exposed civilians to uncertainty about their ability to escape imminent shelling.

• Ineffectiveness of the “Knock on the Roof” practice

There were numerous instances of deaths incurred as a result of homes adjacent to those which received “knock on the roof” warnings that they were due to be targeted. In some cases, civilians saw a “knock on the roof” targeting a neighbouring house and tried to flee. In other cases, either no warning was given or such warnings were not heard or seen by those in adjacent properties.⁷⁶ Other cases highlight the ineffectiveness of the “knock on the roof” practice of giving advance warnings. Not only was inadequate time left to enable civilians to flee in such instances but in many cases people did not know that they were being “warned”.

My name is May Hamadah... Since 1994 I’ve lived in a hostel for people with disabilities run by the “Mabrat Falastin” organization in Beit Lahiya. I am a quadriplegic. The hostel is my only home. On Saturday, 12 July 2014, we woke up early, like we do every day during Ramadan. We heard the Muazzin call out and prepared for prayer. It was about 4:30 A.M. Suddenly, there was a loud explosion. Everything shook and the walls collapsed... In hospital, people who came to visit told me that about seven minutes before the hostel was bombed, neighbours heard warning missiles. We heard nothing inside the hostel. Even if we had heard the warning, we wouldn’t have been able to do anything, because we’re all severely handicapped and none of us can move without help. Salwa wouldn’t have been able to get us out of there by herself. Besides, we never imagined

which killed 18 family members”, 16 July 2014, available at: http://www.btselem.org/testimonies/20140716_al_batsh. An Israeli military aircraft fired two missiles without prior warning at the house of Majid Subhi Al Batsh, 50, in the At-Tuffah neighbourhood east of Gaza City at 22:30 on 12 July 2014. Eighteen members of the Al Batsh family were killed in this attack, including six children and three women. Another sixteen were injured, including three women and three children.

74. B’Tselem, “Muhammad Abu Harb describes the bombing that killed his sister, Rawida”, 20 July 2014, available at: http://www.btselem.org/testimonies/20140720_muhammad_abu_harb.

75. B’Tselem, “Testimonies, Muhammad Hamad, 75, resident of Beit Hanun, relates how bombing killed his family members in their yard”, 9 July 2014, available at: http://www.btselem.org/testimonies/20140709_gaza_protective_edge_muhammad_hamad.

76. Lawyers for Palestinian human rights (LPHR), Al Mezan Center for Human Rights, 30 September 2014, *op. cit.*; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 25 August 2014, 08:00 hrs), 25 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_25_08_2014.pdf; B’Tselem, “Abla a-Nabahin of al-Maghazi R.C. recounts bombing of her home on 13 July 2014; her sister Laila al-’Awadat, 34, was killed”, 24 July 2014, available at: http://www.btselem.org/testimonies/20140724_gaza_abla_a_habahin.

*they would bomb a hostel for the disabled. Didn't they know what was in there? I can't understand why they bombed us and killed my two friends.*⁷⁷

Indeed, the knock on the roof warning itself ended up constituting an attack in its own right, having proved lethal to those in receipt of this “warning”⁷⁸. The “knock on the roof” warning practice has been presented as part of a policy aimed at ensuring respect for the principle of precaution by minimising collateral damage. However, this practice was ineffective, and resulted in the direct targeting of civilians unable to flee with sufficient speed after such a notice.

• **Insufficient time to evacuate**

During its mission, FIDH received numerous accounts of insufficient time being allowed to enable civilians to leave their homes following the issuance of a warning. In some accounts relatives were left behind in the panic; in others those with mobility difficulties found themselves simply having to sit and await death as those around them fled. Whist accounts varied, they were nevertheless all characterized by inadequate time to evacuate, resulting in fatalities and a powerlessness to prevent them.⁷⁹

• **The provision of inaccurate and misleading information**

Civilians were also provided with inaccurate and misleading information. Among such instances were the following:

- Attacks took place during intervals that had been declared safe. Thus, for example, fatalities occurred when people returned to their homes to collect basic goods lacking in shelters or when people went out on the street to buy food and goods at times when a ceasefire had been announced.⁸⁰ For example, one witness attested that on 26 July 2014, in the Central region: *“When the ceasefire was announced, my uncle, Naeem, left his shelter near Al Mazraa school in Deir Al Balah to return to his home in east Wadi Al Salqa to check on it. But he didn't come back. We were frightened and after we asked around, we heard that his body had been picked up at around 4:55 P.M. on the same day.”*⁸¹

77. B'Tselem, “May Hamadah, 33, who is fully paralyzed, describes the bombing of the hostel she lives in, which killed two and injured four”, 14 July 2014, http://www.btselem.org/testimonies/20140714_disabled_center_hamada. Attack on Mebarat Palestine for the Disabled totally destroying the building, killing two disabled women, and injuring three disabled and one carer. Al Mezan Center for Human Rights, “IOF Airstrike on a Disabled NGO Kills 2, Injures 4, 128 Killed, over 780 Injured and 635 Houses Destroyed as IOF Military Attacks Continue”, 12 July 2014, available at: <http://www.mezan.org/en/a.php?id=19219>; Lawyers for Palestinian human rights (LPHR), Al Mezan Center for Human Rights, Complaint submitted to the United Nations concerning large-scale destruction and damage to family houses in the Gaza Strip with associated profound loss of life and injury to Palestinian residents, during Israel's military operation between 7 July 2014 and 26 August 2014, 30 September 2014, available at: <http://lphr.org.uk/wp-content/uploads/Complaint-Submission-to-UNSR-Gaza2.pdf>.

78. B'Tselem, “Testimonies, Wisam Shuheibar relates how a missile killed his 8-year-old daughter and her cousins, 7 and 10, while they were feeding pigeons on the roof,” 21 July 2014, available at: http://www.btselem.org/testimonies/20140721_gaza_wissam_shuheibar.

79. See also *ibid.*; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 14 July 2014, 15:00 hrs), 14 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitreps_15_07_2014.pdf; OCHA, 25 August 2014, *op. cit.*; Al Mezan Center for Human Rights, 13 July 2014, *op. cit.*

80. Al Mezan Center for Human Rights, “Humanitarian Truce Fails and IOF Employ Carpet Bombardment in Rafah Killing Dozens of people, Al Mezan: Death Toll Reaches 1,497; 81.8% Civilians; 358 Children and 196 Women; Excluding Rafah”, 1 August 2014, available at: <http://www.mezan.org/en/a.php?id=19290>; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 2 August 2014, 15:00 hrs), 3 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitreps_03_08_2014.pdf.

81. Amnesty International, Document - Israel and the Occupied Palestinian Territories: Open letter to the UN Security Council on the situation in Israel and the Occupied Palestinian Territories, 1 August 2014, available at: <http://www.amnesty.org/en/library/asset/MDE15/020/2014/en/e8aafdd0-ad5e-45ef-ad40-64efd223490c/mde150202014en.html>;

Moreover, on 30 July in the open market in Al Shejai'ya, Al Mezan reports that Israeli forces fired at least 3 missiles killing 30 people and injuring a dozen more as people went to the market two hours after the IDF had announced a humanitarian pause.⁸²

- Cases were documented where people, such as the Wahdan family, were ordered to stay at home by Israeli forces, but were subsequently killed by an Israeli artillery attack on their home town Beit Hanoun on 26 July 2014. The night before Israel had declared a humanitarian ceasefire for July 26, but Israeli troops had ordered the family not to use the opportunity to leave the home: *"I talked to them on the phone at nine o'clock in the evening and the Israelis had left the area 10 minutes before and told them not to move, to stay in the house."* The building was reduced to rubble,⁸³ as was the whole surrounding area. The fatalities spanned four generations, including three children (2, 9 and 13 years old), two youths (both 22) and 3 older persons (51, 65 and 67 years old).
- Cases were also reported of warnings issued without providing the necessary information to identify a concrete target. For example, in Deir Al Balah there are several four-storey buildings surrounded by land. Here, on 23 July, a woman received a call on the family's mobile phone warning of an air strike on a four-storey building in the neighbourhood *"and the land around it"*. Thinking that the call was a hoax, the woman hung up. The call was repeated ten minutes later and was answered by her husband. He promptly fled without informing his neighbours. He was called a second time and ordered to warn his neighbours to evacuate the area. His sons carried out the instructions. As many buildings in the neighbourhood were four-storey and surrounded by land, **up to 200 people took shelter with Ali Abdul-Jawad Muheisan, whose house was judged to be safest due to his perceived non-partisan status**. The caller rang back at 10:00 to enquire why so many people remained in the neighbourhood and was told that the instructions were too vague to enable identification of the intended target. Another warning call came just before 14:00 and the caller said he would initiate 'roof-knocking' to identify the target. At 14:00, a small missile struck the roof of the Muheisan house. Seven minutes after the 'roof knocking', several missiles destroyed the building. The strike killed one woman who had apparently returned to the house to retrieve some valuables. The force of the explosion also killed a woman and a boy fleeing from an adjacent house.⁸⁴ Inhabitants remained under threat for four hours, having been given inaccurate information and left in uncertainty as to the real target of the Israeli forces. This led them to make poor choices in seeking shelter. After those four hours, only seven minutes were reportedly given to evacuate, resulting in fatalities.⁸⁵

Testimony delivered to Al Mezan by Younis Abu Zaher. Al Mezan reports Naeem was civilian and that Israeli artillery opened fire, killing him when he was near his house.

82. The report outlines that IDF had announced a humanitarian truce starting at 3 pm and until 7 pm, the attack happened at 5. Al Mezan Center for Human Rights, "Humanitarian situation deteriorate rapidly in Gaza and IOF attacks continue, Al Mezan: Death Toll Reaches 1,440 Palestinians; 79.9% Civilians; 343 Children and 186 Women", 31 July 2014, available at: <http://www.mezan.org/en/a.php?id=19288>.

83. *The Telegraph*, "Israeli attacks on Gaza families must be investigated as war crimes, says human rights groups", 17 August 2014, available at: <http://www.telegraph.co.uk/news/worldnews/middleeast/gaza/11039636/Israeli-attacks-on-Gaza-families-must-be-investigated-as-war-crimes-say-human-rights-groups.html>; Lawyers for Palestinian Human Rights (LPHR), Al Mezan Center for Human Rights, 30 September 2014, *op. cit.*

84. OCHA, The Monthly Humanitarian Bulletin | June – August 2014, 3 October 2014, available at: http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_10_03_english.pdf; Al Mezan Center for Human Rights, "IOF Commits more Grave Violations of International Law by Targeting Civilian Objects in Gaza Al Mezan: 2,127 Killed; 512 Children and 293 Women since 7 July", 24 August 2014, available at: <http://www.mezan.org/en/details.php?>

85. OCHA, The Monthly Humanitarian Bulletin | June – August 2014, 3 October 2014, available at: <http://www.ochaopt.org>.

2. Consequences of widespread use of advance warning policy affecting large populations

The widespread dissemination of leaflets and pre-recorded calls threatening lethal consequences and imminent heavy military strikes against unspecified terrorist activities created the conditions for the population to fear indiscriminate and disproportionate operations. This practice was exacerbated by erratic and unreliable warning practices and direct attacks on civilians who did not flee or who failed to do so adequately.

Rather than minimising loss of civilian life, Israel's warning policy fomented massive forced displacement and spread confusion and fear among the population.

a) Forced displacement and inadequate housing and sanitary conditions

The Gaza Strip is only 360 km² (a little over twice the size of Brussels) and is inhabited by over 1.8 million people. According to a coordinator of emergency services at the Palestine Red Crescent Society (PRCS), Operation Protective Edge concentrated this population within an even smaller area of this territory:

“The Israeli military used Salah al Din Road, the main highway running the entire length of the Gaza Strip from north to south, to divide the Gaza Strip into east and west segments. Everyone within 3 km of Gaza’s eastern border with Israel was advised to evacuate (via leaflets dropped from the sky). PRCS estimates that about 500,000 people were internally displaced, especially alongside the north and east borders, but also from the west, where shelling from Israeli gun-boats took place from the sea, confining many to a narrow area (less than one kilometer wide) between Salah al Din Road and the buffer zone, near the Israeli border. When the IDF later gave instructions to evacuate from the west of Gaza (the coastal side, closing West Beach Road), it meant that residents of Gaza were squeezed into the middle of the Gaza Strip. Even within this middle area, however, many attacks were reported.”⁸⁶

The number of people displaced by these warnings exceeded the UN's ability to provide humanitarian facilities to shelter those fleeing their homes. OCHA stated that: *“In total, the number of displaced, including those staying with host families, reached over 500,000 people at the height of the conflict, representing 28 per cent of the population of Gaza.”⁸⁷*

These practices continued despite the UN's continual complaint that humanitarian facilities were unable to absorb the unprecedented wave of displaced. The number of persons requiring humanitarian assistance was six times more than UNRWA's maximum capacity under its contingency plan – a capacity based on the agency's experience of previous escalations of hostilities.⁸⁸ The UN repeatedly warned that humanitarian agencies could not provide for even the most basic of IDP needs, not only because of the volume of displaced but also because

org/documents/ocha_opt_the_humanitarian_monitor_2014_10_03_english.pdf.

86. Jutta Bachmann, Laurel Baldwin-Ragaven, Hans Petter Hougen, Jennifer Leaning, Karen Kelly, Önder Özkalıpci, Louis Reynolds, Alicia Vacas, *Gaza, 2014, op. cit.*

87. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 28 August 2014, 08:00 hrs), 28 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitreps_28_08_2014.pdf.

88. *Ibid.*

of the damage caused to infrastructure during intensive Israeli shelling (see the OCHA daily reports). Overcrowding, lack of dignity and privacy, lack of adequate sanitation and hygiene, insufficient access to water for drinking and domestic use, and a lack of electricity were just some of the concerns raised. Health concerns included the spread of communicable disease, a lack of medical staff in shelters and a lack of medication and health care for chronic diseases. Shelters also provided very limited privacy for women.

Ahmed Shakir Ahmed al-Jammal from Al-Shujaiya, East of Gaza, was interviewed by Al Mezan. On 17 August 2014 he fled to Zaytoun Preparatory school for girls (b). He explained that at this shelter:

“We sleep on the ground, we eat one meal each day that the UNRWA gives us. It’s a triangular cheese, canned tuna, butter, bread and water. We suffer from a severe shortage of water and sanitation (bathrooms). We can’t enter a bathroom that doesn’t smell, all bathrooms smell horrible, and there is sewer water all around us.”

Abd al-Fatah Fiad, fled to Khan Yunis on 18 July:

“We finally arrived, tired and anxious, at an UNRWA school across from the Khan Yunis hospital. When we reached the school, there was nothing here. Gradually, aid started coming in. Some mattresses arrived, but not enough for everyone. I think there was one mattress for every three people. There were no blankets or food in the school, but the al-Katab and a-Suna organization gave food to people arriving. Because more and more people are leaving their homes, there are already 40 to 70 people in each classroom now. We’re in a room of 57 people, mostly children. The water supply is irregular and there aren’t enough washrooms.”⁸⁹

IDPs staying with host families also put a significant strain on the already depleted resources of these families and communities.⁹⁰ As one victim testified:

“The hardest thing about leaving was that we didn’t know where to go. People in the Gaza Strip have very little and live off almost nothing, especially these days, when it’s so hot and we’re on Ramadan fast. How can we allow ourselves to go to people’s homes and burden them? But, like I said, we had no choice but to leave. [...] I went with my wife and the rest of our children [eight children] to my wife’s family [...] We’re staying in a 120 square meter house. There are three families here now, 14 people all in all [...] The house has one big bedroom, 16 square meters large. There’s a room on the roof but no one is using it because it looks out over the sea and they’re afraid the navy will bomb the area. The bombs are landing from every direction, from the sea and from the air, indiscriminately. We’re all squashed together here feeling scared and worried. We don’t know how long this will last and how we’ll get through the next few days, with 14 people in a house that has only one bathroom, and with nothing except the few things we took with us.”⁹¹

89. B’Tselem, “‘Abd al-Fatah Fiad, a farmer from al-Qararah, relates how he and his family fled to Khan Yunis, abandoning their home and livestock”, 18 July 2014, available at: http://www.btselem.org/testimonies/20140718_gaza_fiad.

90. OCHA, 9 September 2014, *op. cit.*

91. B’Tselem, 20 July 2014, *op. cit.*

People who did not flee faced massive attacks, forcing them to become displaced amidst the shelling.

In Shuja'iyya, FIDH was told how people were ordered to evacuate several times. Those refusing to leave were progressively deprived of water and electricity – a fact later reported on by a number of news outlets. Israeli forces bombed Shijua'iya heavily. Artillery fire escalated until 19 July, when the trapped population – now trying to flee – suffered 177 fatalities.

Ahmed Shakir Ahmed al-Jammal from Al-Shujaiya, East of Gaza, was interviewed by Al Mezan. On 17 August 2014 he fled to Zaytoun Preparatory school for girls (b). On 20 July 2014, he confirmed that:

“Around 17:00 on the evening of Thursday 17 July 2014, I started to hear loud explosions from the Israeli bombardment of agricultural land situated in many spots in al Shujaiya. Over time, the bombardment started to get nearer and nearer to our house. Electricity was cut off, as well as water supply, due to the occupation’s targeting of street lamps and water wells. At the time we were very afraid of potential Israeli land attacks on the area due to our earlier experiences during the 2008/2009 attack as well as the 2012 attack. At the start of the Defense Pillar operation we didn’t leave our houses. Me and my family and the families of my uncles from my father’s side, who live beside us, didn’t leave, because there was nowhere to flee to, especially as we were so many. Also we had been through bitter experiences earlier when we were living in refugee centres opened by UNRWA at the time. I also have relatives here, so we decided to stay in our houses regardless of the Israeli Army’s threats. Around midnight on Sunday 20 July 2014 I heard the dense movement of warplanes, especially drones, flying low. Then I heard several very violent explosions due to the artillery shells and bombs thrown from drones around our houses. Me and all the rest of the family felt very afraid due to the very violent explosions. Then the Israeli shells started falling on our house, so we descended to take refuge on the ground floor.”

Trapped without any possibility of escape, the family had to wait several days:

“The occupation forces left corpses on the ground for three days without ambulances being able to reach them. We barely managed to recognize them. Then we took the corpses and buried them in an old family grave at the Sheikh Radwan cemetery towards the north of Gaza city.”

This testimony relates to the second and third day of Israel’s ground incursion. Similar stories were related in respect of experiences in other places subject to assault.⁹² Having issued warnings the Israeli forces launched attacks in disregard of the risks faced by populations remaining in their home. Muhammad left his home in Beit Layia on 13 July and gave his testimony the same day, stating that, “[t]hey gave us extra time until 12:00 noon, as a last warning [...] Israel fulfilled its threats from day one. It bombed empty fields and farmland. [...] In some houses, the roof collapsed”⁹³.

92. Jutta Bachmann, Laurel Baldwin-Ragaven, Hans Petter Hougen, Jennifer Leaning, Karen Kelly, Önder Özkalipci, Louis Reynolds, Alicia Vacas, *Gaza, 2014, op. cit.*, p. 81; RW, “Gaza: Israeli Soldiers Shoot and Kill Fleeing Civilians”, 4 August 2014, available at: <http://www.hrw.org/news/2014/08/04/gaza-israeli-soldiers-shoot-and-kill-fleeing-civilians>.

93. B’Tselem, “Muhamad Abu Haloub, 75, a retired Education Ministry director, describes how he and his

b) Psycho-social impacts of the warning policy: increased confusion, fear, distress and feelings of helplessness

i) Fear and agony experienced by residents who stayed, fled, or were forced to abandon relatives or neighbours

Muhammad was forcibly displaced from Beit Layia on 13 July. He explained that “[p]revious wars taught us to fear not only the Israeli missiles but also thieves, who use these opportunities to steal from the empty houses. As you know, it’s not easy to leave your home behind, with your entire life in it”⁹⁴.

Shadi Muhammad Saleh Taleb, 29, who finally left his house in Beit Hanoun, testified that:

“In the 2012 operation (Pillar of Defense), many residents – including my own family – left of their own accord as soon as the attacks began. Leaving our home is agonizing. It’s been hard every time. [...] On the very day the ground incursion began, some apartments in the residential high-rises in Beit Hanoun were bombed. Bombings of Beit Hanoun have continued ever since, and more apartments in high-rises were hit. Ambulance teams that came to the neighborhood to care for the wounded on the first day of the ground incursion told us there was serious military activity in the area and recommended we leave to save ourselves. We took their advice and left that day. Most people in the area did the same [...]. My wife took our two little children [...], and I stayed behind to keep watch over the house [...].”⁹⁵

Suhair Shabat, also from Beit Hanoun, stated that:

“Since the war began, we’ve been hearing terrible reports of bombings and families and children killed. At first, my husband and his relatives decided that we should all stay together at home for the war, and that we should face the difficult times when there are bombings together. We decided not to leave our home and not go anywhere else. In the previous war, we had to leave home and we suffered a lot. [...] We have stayed at home until today, 19 July 2014, despite the ongoing bombings. [...] Things are getting progressively worse. There are air strikes as well as shelling from land and sea. Several houses in our area were bombed and people were injured and killed. [...] It was a tough decision. Today we decided to leave.”⁹⁶

Faiza a-Luah fled from Beit Lahiya with her eight children on 10 July, under heavy shelling. She left her husband and the children’s grandmother behind. Faiza’s husband reportedly refused to leave because of the humiliation of being homeless. When things got worse to the extent that it was more dangerous to stay than go he continued to refuse to leave and upon receiving warning of an attack said that there was no means to move his mother and that he would not leave her behind alone.

“Our home was already bombed once, in the 2009 war [Operation Cast Lead]. We left the house then too and sheltered in a school. When we got back, we found a pile of rubble [...]

family evacuated their Beit Lahiya home on military orders”, 20 July 2014, available at: http://www.btselem.org/testimonies/20140720_abu_halub.

94. *Ibid.*

95. B’Tselem, “Shadi Taleb tells of seeing Abu Jarad family home shelled, leaving 8 dead; recounts constantly fleeing with his family for fear of bombings”, 21 July 2014, available at: http://www.btselem.org/testimonies/20140721_gaza_shadi_taleb.

96. B’Tselem, “Suhair Shabat describes mortal fear of bombing, leading her to take her children and flee Beit Hanoun”, 14 July 2014, available at: http://www.btselem.org/testimonies/20140714_gaza_suhair_shabat.

*My husband and children and I built an improvised room out of wood and tin sheets and lived like that for three and a half years, all in one room. We just finished rebuilding one story of our house a year ago. [...] My husband didn't want to leave and insisted on staying home with his mother. He told me: 'I want to die here. I prefer to die in our home than be homeless and humiliated in other people's homes.' My daughters and I cried, but he wouldn't budge [...] I'm really worried about my husband. I talked to him a short while ago, and he told me things are worse. I asked him to leave the house, but he said it's very dangerous and that if he goes outside, he won't make it alive [...] Last night, my husband told me that the Israeli army had called him and were asking the residents to leave the area for their own safety. They told the residents to walk through a-Salatin and al-Fakhura streets to central Gaza. But my husband said that it's impossible, that he won't leave home because his mother is there. She can't walk and there are no means of transport to take her, so he will stay home with her."*⁹⁷

Residents fleeing in panic were unable to help their distressed, wounded and immobile neighbours, including women and children, who were left behind screaming and bleeding. Survivors continue to face the trauma of leaving behind those suffering.

Ahmed Fatihi Osman Ayyad, of Al-Mansoura Street, Shujaiya, East of Gaza, was interviewed by Mohamed Abu Rahma of al-Haq on 14 August. She lost her son and her sister. She said:

"Around 20:00 on Saturday 19 July 2014 I heard several interrupted explosions, and with time I heard very strong and very close explosions that were getting nearer to where we live. Around midnight of the same day, I started to hear huge explosions continuously in the neighbourhood. Then the Israeli bombs started to get close to our house, hitting the upper floor. I felt very afraid, I descended with my family to try and get protection on the first floor, fearing the bombs. The Israeli bombs kept on coming. Around 6 am on Sunday 20 July 2014 [...] I fled [...]. I saw hundreds of neighbours leaving their houses and fleeing towards the west, as the shells were still densely falling on people's houses and on al-Mansoura street. I saw many citizens, including women, children and elders running as fast as they could fleeing the artillery shells falling densely. They were bare footed, and some women ran with their hair loose and in the clothes they wear at home, and in their light clothes they use for prayers. Then, as we were running, I saw about 10 citizens on the ground, bleeding. I saw that some of them were cut to pieces due to the shells falling on them. While we were fleeing [...] artillery shells were still falling, some shells fell beside us [...]. I checked myself to find myself bleeding a lot from my arm, leg and chest. I looked around to see Sherine, Rami and his wife and son on the ground, their bodies covered in blood. I called them several times but no one responded... No one looked at us or stopped to help, fearing for their lives. Afterwards I stayed on the ground, I lost consciousness [...]. After around 30 minutes I heard people screaming around me, calling for help, I looked around to see a journalist, a young journalist, wearing dark blue body armor with the word 'press' on it. I waved with my good hand, called to him, so he came running. I heard him saying to the second man in civilian clothes, 'this one is still alive, the others are dead, leave them'. He carried me [...]. The doctor amputated my left arm from the elbow, because I was hit by shrapnel [...]. [A] week after these events I heard from my family that my son Rami, his son Mohamed, and my sister Sherine, were martyred."

97. B'Tselem, "Faiza a-Luah on being forced to flee her home in northern Gaza with her children; their previous home was destroyed in Operation Cast Lead", 16 July 2014, available at: http://www.btselem.org/testimonies/20140716_fayzeh_al_luah.

ii) Whilst experiences of displacement varied, the shared conviction among Gaza's inhabitants was that there was “no place to go” and “no safe place” in Gaza in the summer of 2014

Gaza residents have no means of escaping the territory of Gaza because of restrictions imposed on their freedom of movement over the years. OCHA confirmed the distress caused by “*sending of messages through leaflets, phone calls and mobile phone texts warning civilians to stay away from ‘terrorists and terror infrastructure’ causing panic among the population in Gaza*”⁹⁸. PRCS coordinator also testified that “[t]here was no clarity about where to go, even though the directions were to leave. No shelters were provided and there were no safe houses. Therefore, there was no solution about where to go.”⁹⁹ Some people had to move several times because the UNRWA shelter or the house in which they had sought refuge also subsequently came under attack.

Shadi Muhammad Saleh Taleb, 29 from Beit Hanoun, stated:

*“We moved to a friend’s house in ‘Izbet Beit Hanoun, east of the town. On Friday, 18 July 2014, at around 9:00 P.M. – about two hours after we left our home in Beit Hanoun, at the time of the second evening prayer – I heard a loud explosion. A house nearby, about 30 or 40 meters from where we were staying, was hit. I think it was an artillery shell. It landed in the backyard of that house. About 20 people from the Abu Jarad family lived there. About 30 seconds after the first shell, another shell hit one of the walls of the house and caused a lot of damage. [...] eight family members were killed and four were injured. I found that I knew some the people who had been killed. I knew ‘Abd a-Rahman Abu Jarad, his wife, Rajaa, and their two children, a 6-month-old baby and a 6-year-old boy. ‘Abd a-Rahman’s brother Muhammad told me that most of the people killed had been sitting in a room watching the Syrian TV show Bab al-Harah. [...] When we finished clearing the casualties out of the house, I decided, together with the friend we were staying with, to take our families out of the area. At around 11:00 P.M., my family and I moved to the house of another friend in the a-T’wam area, close to Beit Hanoun. That friend had already left with his family, and the house was empty. [...] Things in all of the northern Gaza Strip are getting harder and more dangerous. I think we’ll have to leave here as well and move again. We don’t know where to go next. How long can we keep this up? Only God knows.”*¹⁰⁰ Suhair Shabat from Beit Hanoun further explained: *“Anything that moves becomes a target for bombing, and I wanted to save my children in whatever way I could [...]. I decided to walk to my sister’s house in a-Rimal neighborhood. It was very dangerous. [...] It felt like we were walking through a ghost town. We were surrounded by death, in every direction. At several points, I recited passages from the Quran and prayed to God that He protect my children and me [...]. Although things in a-Rimal are calmer than other places in southern and northern Gaza, we’re not far from the bombings. A nearby building was bombed, but I don’t yet know what happened there [...]. I was still scared, because no place is safe. Whole families, men, women and children, are getting killed all the time. I sent my two eldest, Ahmad and Siba, to stay with my other sister, who also lives in the same neighborhood, so that if we get bombed they’ll be saved.”*¹⁰¹

98. OCHA, 25 August 2014, *op. cit.*

99. Jutta Bachmann, Laurel Baldwin-Ragaven, Hans Petter Hougen, Jennifer Leaning, Karen Kelly, Önder Özkalıpci, Louis Reynolds, Alicia Vacas, *Gaza, 2014, op. cit.*

100. B’Tselem, 21 July 2014, *op. cit.*

101. B’Tselem, 14 July 2014, *op. cit.*

OCHA reports that:

*“Throughout the conflict there was a real fear among the population that no person or place was safe, as evidenced by attacks on hospitals, residential buildings and schools designated as shelters. Psychosocial distress levels, already high among the population of Gaza, have worsened significantly as a result of the conflict.”*¹⁰²

The traumatic knowledge that civilians were vulnerable to death at any time – either by shelling as they fled, if they stayed at home, or even if they sought refuge at UNRWA shelters (also subject to attack) – was the outcome of a warning policy that refused to guarantee civilian protection. Faiza a-Luah, who fled from Beit Lahiya under shelling, explained the implications of this for the ability of civilians to maintain the basic fundamentals of health and dignity:

*“I haven’t showered for a week and feel disgusting. Even before we left home, and later at our relatives’ house, I didn’t shower because I was afraid that the house would be bombed while I wasn’t wearing any clothes. I wear my prayer clothes all the time now, even at night, because if we get bombed and then I get pulled out of the ruins, I want them to find me in modest clothes and for no one to touch my body. That’s our fate in this place [...]. I’m exhausted. I haven’t slept properly since the war began. Every time I fall asleep for a few minutes, I wake up with a jolt from the sound of bombing or someone talking about a bombed home. Yesterday, for example, I woke up because my sons were talking about the al-Batash family, whose home was bombed without warning and a lot of them were killed [...]. If the army bombs the school, we’ll all die.”*¹⁰³

Conclusion

Overall, events in Gaza in the summer of 2014 were characterized by forced displacement, as well as fear and distress caused by military activities that evidenced a patent failure to exercise proportionality in the conduct of the wider conflict, let alone on the case by case basis required under IHL. The Israeli Defence Force’s deeply questionable implementation of advance warnings – being a key means by which proportionality should be achieved – is illustrative of this failure. “Operation Protective Edge” in itself denoted the intentional infliction of severe suffering on the population of Gaza.

Attacks on densely populated residential areas killed an exceptional number of civilians. When warnings were issued, these instigated massive forcible displacement without providing the necessary conditions for those fleeing the violence. Civilians left behind were not spared in the subsequent attacks. Further, the dropping of alarming leaflets, receipt of frightening phone calls and launch of unlawful attacks in the form of “knock on the roof” warnings (known to cause death and injury) under the guise of “warnings” caused terror and panic among the civilian population.

These warnings failed to evidence a credible attempt to achieve the legitimate aim of civilian protection; rather, they suggest an intentional policy on the part of the Israeli State to forcibly displace and/or justify subsequent civilian death.

102. OCHA, 9 September 2014, *op. cit.*

103. B’Tselem, 16 July 2014, *op. cit.*

This policy was pursued for two months, irrespective of the clearly devastating consequences for civilians. As such, there is cause to consider that serious violations of international humanitarian law and serious crimes under international criminal law falling within the competence of the ICC under Articles 7 and 8 of the Rome Statute were committed. Specifically, evidence coincides with elements of crimes against humanity under Article 7(1)(a) murder; Article 7(1)(b) extermination (in conjunction with destruction of life-sustaining infrastructure, as detailed below); 7(1)(d) deportation or forcible transfer of population; and 7(1)(h) persecution, in conjunction with the aforementioned crimes. Further, such evidence suggests war crimes under Articles 8(2)(a)(i) wilful killing; 8(2)(a)(iv) Extensive destruction and appropriation of property [...]; 8(2)(b)(i) intentionally directing attacks against the civilian population [...]; 8(2)(b)(ii) Intentionally directing attacks against civilian objects [...]; and 8(2)(b)(iv) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects [...].

B. Attacks on medical facilities, transport and personnel

During Operation Protective Edge, Israeli forces damaged medical centers, ambulances and hospitals, and killed numerous medical personnel. They also obstructed the transfer and evacuation of the wounded and fired on ambulance crews on numerous occasions.¹⁰⁴ Damage to health facilities and ambulances was reported from the outset of hostilities and in all regions of the Gaza Strip (North, Middle and South).¹⁰⁵ Continuous attacks on hospitals, medical personnel, rescue teams and ambulances raise serious concerns about violations of international humanitarian law.

Under IHL, the wounded and sick are to be provided special protection and respect, and attacks on medical personnel, medical facilities and transport, provided they do not engage in acts harmful to the enemy outside their humanitarian duties, are strictly prohibited.¹⁰⁶

Additionally, such attacks meant that not only were civilians rendered victims of the conflict but also they were afforded no respite from their distress and suffering. IHL requires the free passage of medical supplies and humanitarian relief to civilians in need, subject to the parties' right of control and unless imperative military necessity requires.¹⁰⁷

Such crimes are also codified in the Rome Statute. Reports suggest that, in addition to launching both direct and indiscriminate attacks against civilians, Israeli forces intentionally directed attacks against civilian objects, including hospitals and places where the sick and wounded are collected, without demonstrating their value as legitimate military objectives (Art 8(2)(b) (ix), and attacked buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions (Art 8(2)(b)(xxiv)).

104. Al Mezan Center for Human Rights, "Israeli occupation forces bombs hospitals directly and continue to target medical staff, Al Mezan condemns and calls for the international community to act in order to cease the aggression and to protect civilians", 22 July 2014, available at: http://www.mezan.org/en/details.php?id=19262&ddname=crimes&id_dept=9&id2=9&p=center.

105. OCHA, Gaza Emergency Situation Report (as of 10 July 2014, 15:00 hrs), 10 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_10_07_2014.pdf; Palestinian Ministry of Health, Ministry of Health Emergency Operation Room Sitrep on Gaza August 31st, 2014, August 2014, available at: <http://www.moh.ps/attach/761.pdf>.

106. See, for example, Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 12 August 1949, Art 16-21; International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law*, 2005, Volume I: Rules (ICRC Study), Rule 25, 28, 29, 31, 32.

107. Rule 55 and 56 of ICRC Study; Art. 23 of Fourth Geneva Convention.

According to a Health Cluster report, 23 health workers died as direct consequence of the conflict: 16 on duty and seven at home. A further 83 health workers were injured – the majority ambulance drivers for the various service providers (Ministry of Health, PRCS, PMMS, Civil Defence and NGOs). A total of 45 ambulances were damaged or destroyed. Several incidents in need of investigation were reported.¹⁰⁸

Reports reveal that ambulance insignia and GIS maps of health care facilities (hospitals, long-term care centers and primary healthcare clinics) were repeatedly given to the Israeli military in advance to avert any confusion about what constituted medical personnel and facilities, and to secure respect for medical neutrality. In spite of that more than 50 facilities being included on the list of coordinates, medical units, public clinics, NGOs and primary healthcare centers were attacked and, in some instances, medical vehicles appear to have been directly targeted whilst transporting patients.¹⁰⁹

Whilst some such destruction may have been collateral¹¹⁰, other damage appears to be the result of direct attacks on medical and rescue services. As such, a preliminary assessment of the conflict's impact on the health sector concludes: *"together with the direct targeting of health facilities this is a gross violation of International Humanitarian Law"*¹¹¹.

1. Rescue and humanitarian assistance

Throughout the hostilities humanitarian workers found themselves unable to work, conduct field visits or monitor the situation in safety. OCHA highlights that *"[m]ovement was restricted for all actors due to security concerns, the unpredictable nature of the conflict and challenging coordination with Israeli forces"*¹¹².

PRCS staff reported that before the war the coordination of evacuations of people injured in Israeli attacks to hospitals in Gaza typically took around 10 to 20 minutes. During Operation Protective Edge, evacuation coordination took up to 10 hours on average. In extreme cases it took 7-8 days (e.g. in Khuza'a) or failed completely.¹¹³

108. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 25 July 2014, 15:00 hrs), 26 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_26_07_2014.pdf; Amnesty International, Document - Israel and the Occupied Palestinian Territories: Evidence of medical workers and facilities being targeted by Israeli forces in Gaza, 7 August 2014, available at: <http://www.amnesty.org/en/library/asset/MDE15/023/2014/en/1ec69cff-ac46-4f35-857c-9670f1632b75/mde150232014en.html>; Al Mezan Center for Human Rights, "Despite Humanitarian Truce, IOF Target Medical Personnel and Ambulances and Obstruct their Movement, Five Ambulance Personnel Killed by IOF since the Start of OPE", 26 July 2014, available at: http://www.mezan.org/en/details.php?id=19275&ddname=IOF&id_dept=9&id2=9&p=center; Al Mezan Center for Human Rights, "IOF Continues the Attacks on Inhabited Homes and Target IDP Shelters, 662 Killed including 159 Children and 84 in the Gaza Strip by 1Pm Today", 23 July 2014, available at: http://www.mezan.org/en/details.php?id=19265&ddname=IOF&id_dept=9&id2=9&p=center; Al Mezan Center for Human Rights, "Al Mezan Condemns IOF Attacks on Health Facilities and Humanitarian Crews; Calls on the International Community to Protect Civilians in Gaza", available at: <http://www.mezan.org/en/a.php?id=19230>.

109. Jutta Bachmann, Laurel Baldwin-Ragaven, Hans Petter Hougen, Jennifer Leaning, Karen Kelly, Önder Özkalıpci, Louis Reynolds, Alicia Vacas, *Gaza, 2014, op. cit.*

110. Health Cluster, *Gaza Strip Joint Health Sector Assessment Report*, 30 September 2014, available at: http://reliefweb.int/sites/reliefweb.int/files/resources/Joint_Health_Sector_Assessment_Report_Gaza_Sept_2014.pdf; OCHA, 9 September 2014, *op. cit.*

111. Health Cluster, 30 September 2014, *op. cit.*

112. OCHA, 9 September 2014, *op. cit.*

113. Jutta Bachmann, Laurel Baldwin-Ragaven, Hans Petter Hougen, Jennifer Leaning, Karen Kelly, Önder Özkalıpci, Louis Reynolds, Alicia Vacas, *Gaza, 2014, op. cit.*

A paramedic, Yousef Al Kahlout, testified that:

“The risks and the attacks we were subjected to during this war were much more serious than any previous one. Normally we follow strictly the rule: ‘protect yourself, protect the place.’ We wouldn’t go out without coordination. But this time too often coordination took ages or failed to arrive, so we were going out in any case, even if we were aware that we were putting our lives at risk. We would wait for long minutes, sometimes hours, awaiting coordination, and people kept calling and pleading for evacuation, we could hear them crying for help. We knew they were bleeding, dying... so very often we couldn’t wait and just went off [to assist them].”

The case studies outlined below attest to how the Israeli army clearly obstructed ambulance access, preventing emergency services from evacuating injured persons for days and, in some cases, weeks at a time.¹¹⁴ Such obstruction was carried out primarily, though not exclusively, in areas or during periods of time in which civilian massacres had been reported, such as those in Khuza’a, Shuja’iyya, and Rafah.¹¹⁵ The inability of ambulances to reach the injured because of heavy and continuous shelling was reported throughout the entire territory of the Gaza Strip and from the start of the ground offensive until its end.¹¹⁶ Targeting and/or inhibiting access of rescue workers, in addition to being inherently illegal, further prolonged the extreme suffering of civilians injured in the attacks.

a) Intentional and direct attacks on rescue crews on 25 July 2014, Beit Hanoun

At approximately 16:30 on Friday 25 July 2014, the IDF fired several shells at a PRC ambulance.¹¹⁷ The ambulance team had been at Beit Hanoun Hospital, when it received a call reporting the presence of injured persons in Al-Masreyyeen Street, less than 200-300 meters away.¹¹⁸ The ambulance was clearly marked with distinctive symbols denoting its status.¹¹⁹ It had coordinated the evacuation with the Israeli military via the ICRC, receiving a ‘green light’ to proceed. The rescue team was on the phone with the International Committee of the Red Cross (ICRC) when it reached the locality of the injured, and had begun to open the ambulance doors.

114. OCHA, 9 September 2014, *op. cit.*

115. OCHA, 9 September 2014, *op. cit.*; Al Mezan Center for Human Rights, 22 July 2014, *op. cit.*

116. Al Mezan Center for Human Rights, 26 July 2014, *op. cit.*; HRW, 4 August 2014, *op. cit.*; International Committee of the Red Cross (ICRC), “Gaza and West Bank: Reaching out to all victims amidst growing crisis”, 27 July 2014, available at: <https://www.icrc.org/eng/resources/documents/update/2014/07-27-gaza-west-bank-israel-civilians-and-humanitarian-workers.htm>; Al Mezan Center for Human Rights, “Humanitarian Truce Reveals Vast Destruction in Several Areas in Gaza, Al Mezan: Death Toll Reaches 966 Palestinians: 77% Civilian; 210 Children; and 114 Women”, 26 July 2014, available at: http://www.mezan.org/en/details.php?id=19276&ddname=IOF&id_dept=9&id2=9&p=center; Al Mezan Center for Human Rights, “IOF Intensifies Attacks on Inhabited Homes, 597 Killed including 152 Children and 82 in the Gaza Strip by 1Pm Today. Al Mezan Calls on International Community to Protect Civilians and Investigate IHL Violations”, 22 July 2014, available at: http://www.mezan.org/en/details.php?id=19258&ddname=IOF&id_dept=9&id2=9&p=center; Al Mezan Center for Human Rights, 22 July 2014, *op. cit.*; Al Mezan Center for Human Rights, “As IOF Ground Invasion Ensues, Numbers of Palestinians Killed Climbs to 330 including 76 Children and 36 Women, 20 Children Killed since Yesterday and over 50,000 People Displaced”, 19 July 2014, http://www.mezan.org/en/details.php?id=19249&ddname=IOF&id_dept=9&id2=9&p=center.

117. Al Mezan Center for Human Rights, 26 July 2014, *op. cit.*

118. Jutta Bachmann, Laurel Baldwin-Ragaven, Hans Petter Hougen, Jennifer Leaning, Karen Kelly, Önder Özkalıpci, Louis Reynolds, Alicia Vacas, *Gaza, 2014*, *op. cit.*

119. Amnesty International, “Mounting evidence of deliberate attacks on Gaza health workers by Israeli army”, 7 August 2014, available at: <http://www.amnesty.org/en/news/mounting-evidence-deliberate-attacks-gaza-health-workers-israeli-army-2014-08-07>.



Despite all precautions to secure the safety of the ambulance and its crew, the vehicle was shelled following its arrival at the scene.¹²⁰ The ambulance team, reported back to the PRC that a tank had fired at them and asked for another team to come to their rescue.¹²¹

*FIDH field mission,
October 2014,
Beit Hanoun.
© FIDH*

At approximately 17:35, another Red Crescent ambulance was sent to Al-Masreyyeen Street. This evacuation was also coordinated through the ICRC and received authorization from the Israeli armed forces. The driver told B'Tselem that he had attended the scene with two medics shortly after having received the authorization: “*The street is only about 200-300 meters from the call center, so we were there within minutes.*”¹²² Again, upon the arrival of the second ambulance in Al-Masreyyeen Street, Israeli forces opened fire.¹²³

In both cases, coordination through the ICRC meant that Israeli Forces had agreed to the safe passage of the ambulances. Both ambulances had been clearly marked and reached the scene immediately following authorization. These facts indicate that the Israeli army was not “surprised” by the arrival of the two ambulances, leaving little credibility to claims that such attacks constituted collateral damage. Moreover, these circumstances not only raise concerns about the Israeli army’s respect for the customary principle of precaution, but when understood in the context of survivor testimonies, tend to evidence the intentional targeting of the rescue crews on the part of Israeli forces.

120. Amnesty International, 7 August 2014, *op. cit.*; Al Mezan Center for Human Rights, 26 July 2014, *op. cit.*; B’Tselem, “Ambulance driver Rami ‘Ali recounts attacks that killed paramedic ‘Aaed al-Bura’i and injured team sent to rescue him, both despite coordination with Red Crescent”, 27 July 2014, available at: http://www.btselem.org/testimonies/20140727_gaza_ambulance_driver_rami_ali.

121. *Ibid.*

122. *Ibid.*

123. Jutta Bachmann, Laurel Baldwin-Ragaven, Hans Petter Hougen, Jennifer Leaning, Karen Kelly, Önder Özkalıpci, Louis Reynolds, Alicia Vacas, *Gaza, 2014, op. cit.*

The driver of the second ambulance, Rami Ali, told Al Mezan, that upon reaching the entrance of Al-Masreyyeen Street he could see the first convoy lying at the side of the road, approximately 50 meters to the east of the entrance. He said he also saw the Israeli vehicles open fire on him.¹²⁴ He recounts:

*“When we reached the entrance to the street, we were surprised to see three tanks and a military bulldozer in the street, about 100 meters away. Suddenly, with no warning, they opened heavy machine-gun fire at us. The bullets penetrated the ambulance. I tried to turn the ambulance around to get out of there, but the steering wheel must have been hit. Suddenly, I felt sharp pain in my leg and realized I’d been hit by a bullet or shrapnel. Then the windshield shattered. Because I couldn’t turn the ambulance around, I decided to try reversing. They kept firing as I backed up, until we got far enough away. When they stopped, I managed to turn us around and head back to the center.”*¹²⁵

Returning to Beit Hanoun Hospital, having failed to rescue the first ambulance hit Al-Masreyyeen Street, Rami Ali saw Hatim Shaheen, one of the two medics who had been in the first convoy and who had succeeded in escaping the locality. This enabled Rami to provide them with further information on the circumstances surrounding the strike on the first convoy:

*“On the way there we met Hatem Shahin, one of the paramedics from the first ambulance. He’d been hit by shrapnel in his shoulder and leg. He told us that a shell fired from a tank had hit the front part of the ambulance. He said he’d managed to get away but the other paramedic, ‘Aaed, had been hit. He told us that after he ran away from there, he saw the tank fire another shell at the ambulance, completely destroying it. He thought ‘Aaed must have been killed, but we didn’t know for sure.”*¹²⁶

Jawad Fayez Bdeer, the driver of the first ambulance, who had also been injured by the tank fire, added in testimony given to Amnesty International:

*“I looked at the back of the car, and I could not see a back to the car, the back half of the car was all gone, totally separated from the front of the car, nothing was attached, no doors, nothing. [...] I believe I was directly targeted. The Occupation [Israeli military] does not discriminate between rocks or trees or human beings.”*¹²⁷

It was not until the declaration of a ceasefire from 8:00 to 20:00 the following day (26 July) that a rescue crew was able to reach first ambulance. The body of ‘Aa’id Al Bor’ee, one of the two medics originally on board and left behind under shell fire, was found dead in the burnt out vehicle.

The shelling of the first ambulance occasioned one death, two injuries and destroyed the vehicle entirely. The attack on the second ambulance resulted in injuries to the driver, eight bullet holes, a shattered windscreen and a damaged radiator.¹²⁸

124. Al Mezan Center for Human Rights, 26 July 2014, *op. cit.*

125. B’Tselem, 27 July 2014, *op. cit.*

126. *Ibid.*

127. Amnesty International, 7 August 2014, *op. cit.*

128. B’Tselem, 27 July 2014, *op. cit.*; Al Mezan Center for Human Rights, 26 July 2014, *op. cit.*; Jutta Bachmann, Laurel Baldwin-Ragaven, Hans Petter Hougen, Jennifer Leaning, Karen Kelly, Önder Özkalıpci, Louis Reynolds, Alicia Vacas, *Gaza, 2014, op. cit.*

Witness testimony corroborates the fact that these rescue teams were intentionally targeted. The second shell to be directed at the first ambulance was fired some time after the first shell, at a time when the second medic from the targeted crew was running away from the vehicle. The Israeli tank firing that munition was sufficiently close to the ambulance to be identified by him. The attack on the second ambulance reportedly required the tank to change its direction of fire to follow the fleeing ambulance, which was in motion. As such, it seems, at minimum, to have been launched to prevent the rescue team from approaching the locality during the military operation.

Following these events, the PRCS withdrew its station at Beit Hanoun¹²⁹, further leaving the population without humanitarian assistance.

b) Rescue crews prevented by the Israeli army from entering Khuza'a from 20 to 25 July

On 22 July 2014 Dr. Qdeih, who was trapped together with hundreds of civilians in Khuza'a, contacted PRCS, the International Committee of the Red Cross (ICRC) and the Gaza Ministry of Health to ask them to coordinate the safe evacuation of these persons. Khuza'a was then under heavy shelling and gun fire. Dr. Qdeih reported that the ICRC's attempts to coordinate evacuation failed. The Israeli army refused to assist with any arrangements and the ICRC informed him that the area was now a closed, active military zone and that they were unable to help.¹³⁰

On 23 July 2014, at approximately 5:00, the bombing intensified. The ICRC stated that it could assist with evacuation in about two hours. After the two hours had passed Dr. Qdeih contacted the ICRC again. They stated that they were about one kilometer from Khuza'a (Abaha area) but that the Israeli army was refusing to allow them to move any closer.¹³¹ Attempting to vacate the area by themselves, a large group of at least 500 people, walked out together, holding white flags and shouting 'peaceful, peaceful'. The group was prevented from leaving. A megaphone announcement told the group: "*You must return, you do not have permission to leave this area.*" Soldiers and snipers were stationed on the rooftops of and inside houses along the streets, and the group came under gunfire. Dr. Qdeih says he saw Israeli soldiers with weapons shooting at the group and counted approximately 31 people injured by bullets and/or shrapnel.¹³² This situation continued for days, with the population trapped, killed and prevented from being rescued.

c) Rescue teams prevented by the Israeli army from entering Shuja'iyya between 19–20 July and killed upon attempting to enter without authorization

According to PRCS staff, the first attack with multiple casualties at Shuja'iyya in Eastern Gaza City on 20 July 2014, saw PRCS requests for access to evacuate the wounded denied: "*We called ICRC for coordination but the answer was negative. They said that the Israeli army were not granting coordination for evacuation of the area.*"¹³³

129. *Ibid.*

130. *Ibid.*

131. *Ibid.*, p. 82.

132. Jutta Bachmann, Laurel Baldwin-Ragaven, Hans Petter Hougen, Jennifer Leaning, Karen Kelly, Önder Özkalıpci, Louis Reynolds, Alicia Vacas, *Gaza, 2014, op. cit.*

133. *Ibid.*



FIDH field mission,
October 2014,
Khuza'a. © FIDH

Ahmad Sabah, who works as a paramedic with the PRCS, told B'Tselem that faced with what became known as the massacre of Shuja'iyya, rescue teams found themselves with no choice but to enter the locality without having received authorization:

"On Saturday, 19 July 2014, at around 11:00 P.M., I was at work, at the call center that sends ambulances to people calling for help. We started getting calls from three areas in a-Shujai'yeh neighborhood in Gaza City: a-Nazaz Street, a-Sha'ath Street, and al-Beltaji Street. The callers sounded extremely distraught. They were shouting for help and asking that we come quickly to take wounded people to hospital. They said they were under massive artillery shelling and a lot of people had been hurt. We realized that the shelling was still underway and we couldn't reach the area. We called the Red Crescent and the Red Cross, but they said it was very dangerous, that we mustn't go there, and that they were also waiting for the shelling to stop in order to go there. In a short space of time, we got more than 200 calls from the neighborhood of a-Shujai'yeh. I can say with almost absolute certainty that we received a call from every single house in the areas I mentioned. During the calls, we could hear young children screaming in the background and women crying. People had been injured and killed in every home we got a call from. At around 5:00 A.M., we held an emergency meeting with the director of the First Aid and Trauma Unit, Diaa Abu Hassan. We decided to go out there, no matter what [...] So many people called us for help that day that I can't even remember most of their names. It's all registered in our records. I do remember one call, made from the house of Abu Muhammad Harazin. It was his son, calling to tell us his father had been injured. At the time, the massive bombing was still going on and we couldn't reach him, to give emergency care and take him to hospital. Half an hour later, the son called us again. He said we shouldn't risk trying to reach them, because his father had passed away."

During the rescue operation, a photographer and a paramedic, Fouad Jaber, were killed. Ahmed Sabah and Diaa Abu Hassan, who had both gone in Shuja'iyya on the morning of 20 July 2014, reported on the events that took place. Diaa Abu Hassan states that he was giving first aid with Fouad Jaber under severe shell fire. He was first fired upon around 6:00 A.M. from an unknown source and then targeted by two shells, one of them directly hitting the ambulance. He reports that a third strike then took place. Intense bombing hit the photographer. Diaa Abu Hassan reports that having lost consciousness he did not see what happened to Jaber.

“When we were around 30 meters from the house, there was heavy gunfire in our direction despite our uniforms. The shooting came from nearby houses, but I couldn’t see the shooters. We had to go back to the ambulance, where the driver and the photographer were waiting for us, ready to leave. The driver and myself in the front seats and Fouad and the photographer in the cabin. At 6:15 am the ambulance moved some 50 meters when we were surprised by a shell which landed just in front of the vehicle. We were going very fast. We had to brake. Suddenly I felt a shock like an earthquake, and I knew that the ambulance was hit. When I looked around the driver was unconscious and I myself was very dizzy from a head injury. Thirty seconds later a second missile hit the ambulance directly. The driver was thrown from the vehicle. I heard Fouad and the photographer calling me: ‘Are you ok?’ I told them: ‘Get out and run. They are aiming at us!!!’ I tried to get out myself but my door was stuck and I couldn’t open it. I got ready for certain death and said a prayer. Then a drone (though I am not sure whether it was a drone) struck close by and the door opened by itself, so I could run away. Fouad and the photographer were protected by a wall. There were trees close to the road. I ran away from the ambulance towards them. Fouad asked: ‘Where can we go?’ Bombs were literally ‘raining’ all around us. The photographer said: ‘Keep squatting, to avoid shrapnel.’ He was still talking when a missile hit him on his shoulder (I saw it, it was like fire flying towards him). I was thrown back by the blast. Drones and artillery were shelling at the same time. I was semi-conscious, with several injuries. I tried hard not to lose consciousness and called out for help. Close to me there was an old man, covered with blood, calling me. There was dense black smoke all around. Bombs kept falling for a long time. I knew that Fouad and the photographer could not have survived the attack. I woke up three hours later at Shifa Hospital and learned that Fouad and the photographer had been martyred [description given to anyone killed in attacks by Israel-Ed.]. The driver was injured.”¹³⁴

FIDH field mission,
October 2014,
Shuja'iyya. © FIDH



134. Jutta Bachmann, Laurel Baldwin-Ragaven, Hans Petter Hougen, Jennifer Leaning, Karen Kelly, Önder Özkalıpci, Louis Reynolds, Alicia Vacas, *Gaza, 2014, op. cit.*, p.46-47.

Two days after these events, Ahmad Sabah, who had come in another ambulance, also recounted the events to B'Tselem. He explained that after the missile had hit the photographer, he continued to rescue people and that Jaber, who had been injured, was next to him. He stated that ambulances intended to help the teams leave the locality had been destroyed, that he had nevertheless managed to convoy the injured to hospital, deciding to leave Jaber behind. He stated that by the time he came back for Jaber, he had bled to death. He said that numerous bodies, including women and children, were lying in the street.

*"We only took several steps when, suddenly, a missile was fired at us. It landed very close to me. It hit the photojournalist, Khaled Hamad, directly, killing him. A 25-year-old paramedic named Fuad Jaber was hit in the back by shrapnel. We ran towards the a-Sarsaks' home to take cover but then another missile landed, close to the house. I started treating a little boy, about four years old, who had been hit in the leg by shrapnel. Then I treated another paramedic, Fares 'Afaneh, who was hit by stones that flew up because of the blast. We carried them both towards the vehicles. When we got to the vehicles, we saw they'd been damaged by the bombing, too. Two ambulances and one civil defense vehicle were useless. We were left with one ambulance and one civil defense vehicle. We got in with the injured child and Fares, the injured paramedic. We headed to the hospital in those two cars, leaving Khaled Hamad, the photojournalist who was killed, and Fuad Jaber, the other injured paramedic behind. We reached the hospital and left the injured people there for further treatment. Despite the huge risk, we decided to go back to get Fuad. We hoped to find him alive. I'm sorry to say, but when we got there, he was dead. His wound was small, but he simply bled to death. He could have been with us now, if only we'd taken him in the ambulance with us. If they'd have let us take the injured people to hospital instead of bombing us. We carried away the bodies of Khaled and Fuad. We couldn't take any others. Only then did we understand the horror of what had happened there. In the short distance I crossed, about 300 meters, I saw a woman and six or seven children lying dead. A few meters from there, I saw two dead men. Across the road, I saw a man, woman and two small children lying dead. They may have been from a single family. Not a single house was left unharmed on that street. Every house was bombed. It was such a terrible sight. Your eyes see it, but your mind doesn't comprehend."*¹³⁵

Directing such assaults at humanitarian workers, whether intentional or as a result of indiscriminate attack, amounts to a violation of provisions requiring the protection of medical personnel and facilitation of rapid and unimpeded humanitarian relief to civilians in need.

2. Hospitals and health care facilities

International law places obligations on all parties to ensure that the wounded and sick receive medical care. Hospitals have special legal protections and may be attacked only if being used to commit acts harmful to the enemy. Under IHL, doctors, nurses and other medical personnel must be permitted to do their work and be protected in all circumstances. They lose their protection only if they commit, outside their humanitarian function, acts harmful to the enemy. The issuance of warnings cannot remedy the illegality of repeatedly striking a hospital without lawful military necessity.¹³⁶

135. B'Tselem, 22 July 2014, *op. cit.*

136. HRW, "Gaza: Airstrike Deaths Raise Concerns on Ground Offensive. Unlawful Israeli Attacks Hit Hospital, Kill



In spite of such legal protections granted hospitals and health care facilities, in August 2014 humanitarian coordinator James W. Rawley warned that *“the public health system is on the verge of collapse. [...] At least 12 hospitals have been damaged since the start of the Gaza emergency, of which five have had to shut down. Fourteen¹³⁷ primary health clinics also sustained damage and nearly half of all clinics in Gaza (34 out of 75) have closed [...] including all those located within the three kilometre buffer zone declared by Israel.”*¹³⁸ In early August, approximately 45 percent of public health facilities had been forced to close their doors.¹³⁹

*FIDH field mission,
October 2014,
Al Wafa Hospital.
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a) Al Wafa Hospital (in Shuja'iyya, east of Gaza City) repeatedly shelled, forced to close and subsequently razed

Al Wafa Rehabilitation Hospital in the east of Gaza City closed its doors on 17 July, after having been hit by artillery on at least three different days (11, 15 and 17 July). On 17 July 2014, the hospital was so severely damaged it was rendered unable to continue its work. Patients and medical staff were evacuated.¹⁴⁰ Six days later, on 23 July, the empty hospital was again struck by Israeli bombardment. FIDH assessed the damage on the ground in late October 2014. The hospital has been completely razed together with most of the rest of the Shuja'iyya neighbourhood in which the hospital was located.

Children, Other Civilians”, 22 July 2014, available at: <http://www.hrw.org/news/2014/07/22/gaza-airstrike-deaths-raise-concerns-ground-offensive>; HRW, 3 August 2014, *op. cit.*

137. OCHA, 28 August 2014, *op. cit.*

138. OCHA, 3 August 2014, *op. cit.*

139. OCHA, The Monthly Humanitarian Bulletin | September 2014, 29 October 2014, available at: http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_10_27_english.pdf; OCHA, The Monthly Humanitarian Bulletin | June – August 2014, 3 October 2014, available at: http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_10_03_english.pdf; Health Cluster, 30 September 2014, *op. cit.*; OCHA, 4 September 2014, *op. cit.*; OCHA, 9 September 2014, *op. cit.*

140. Al Mezan Center for Human Rights, “Al Mezan Condemns IOF Attacks on Health Facilities and Humanitarian Crews; Calls on the International Community to Protect Civilians in Gaza”, available at: <http://www.mezan.org/en/a.php?id=19230>; AFP, Sara Hussein, 16 July 2014, available at: <http://news.yahoo.com/fear-grips-israel-hit-gaza-hospital-151532593.html>; *The Guardian*, available at: <http://www.theguardian.com/world/2014/jul/16/israel-warns-100000-gazans-to-flee-live-updates#block-53c64332e4b093fa8e0aaf17>

Al Wafa Hospital housed many patients who were paralysed or in a coma. Two patients testified to multiple strikes that hit the hospital on 15 July. Aya Abdeen, who was paralysed and one of eight women in the facility stated that “[t]here was shelling all around and the hospital was shaking. And I am as you see, I can’t move.”¹⁴¹

Karam Shublaq had suffered a gunshot wound to his spinal cord in 2006. He stated, “[w]e can’t even move and they hit the fourth floor of the building several times”¹⁴².

Having first been hit on 11 July, the hospital was repeatedly ordered to evacuate.¹⁴³ The director explained that he could not follow this instruction, insisting that his patients were in a severe condition. This rendered moving these individuals highly dangerous, especially as Al Wafa is the only hospital in Gaza and West bank specialized in the specific pathology from which these patients suffered and there was in any case no safe place in Gaza for them to be transferred to.¹⁴⁴

i) Events between 11 and 17 July

The 11 July events remained unexplained. In respect of the strikes on 15 and 17 July, the IDF said that it was shelling the vicinity of the hospital. Regarding the 15 July bombardment, IDF posted on Twitter that, “IAF has bombed rocket launcher situated 300 meters from Al Wafa hospital, in the northern Gaza strip. The hospital, was damaged by a shrapnel.”¹⁴⁵ Regarding the 17 July bombing the IDF spokesperson said, “We’ve seen a lot of launches of rockets that came from exactly near the hospital, 100 meters near”, adding “Obviously the target was not the hospital”¹⁴⁶.

Israeli forces contest having directly and intentionally targeted the hospital, claiming that they sought to neutralize rocket fire originating in the vicinity of the hospital. However, various elements indicate that the hospital was in fact the target of a direct and intentional attack on the part of the Israeli armed force. These are as follows:

- HRW has commented on photographs of the weapons that struck the hospital on 11 and 15 July stating that: “Many of the missiles used by Israeli air and ground forces have advanced guidance systems and accurate targeting systems. The repeated Israeli attacks using accurate missile and tank fire that hit the hospital indicates that Israeli forces targeted the hospital intentionally and not accidentally.”¹⁴⁷
- Given the precision of weapons available to the Israeli military, a target 100 meters from the hospital provides no excuse for hitting the hospital.¹⁴⁸

141. AFP, Sara Hussein, 16 July 2014, available at: <http://news.yahoo.com/fear-grips-israel-hit-gaza-hospital-151532593.html>
142. *Ibid.*

143. *The Guardian*, 16 July 2014, *op. cit.*

144. HRW, 22 July 2014, *op. cit.*; ACRI, “Human Rights NGOs: Immediate Action Required to Enable Evacuation of Wounded in Gaza”, 18 July 2014, available at: <http://www.acri.org.il/en/2014/07/18/evacuate-wounded-gaza/>; AFP, 16 July 2014, *op. cit.*

145. *The Guardian*, 16 July 2014, *op. cit.*

146. Mondoweiss, 19 July 2014, *op. cit.*; HRW, 22 July 2014, *op. cit.*; *The Huffington Post*, Charlotte Alfred, “Hospitals Are Supposed To Be For Healing. In Gaza, They’re Part Of The War Zone”, 30 July 2014, available at: http://www.huffingtonpost.com/2014/07/30/hospitals-bombed-gaza_n_5630606.html; Electronicintifada, Nora Barrows-Friedman, “Israel used fabricated images to justify bombing al-Wafa hospital”, available at: <http://electronicintifada.net/blogs/nora-barrows-friedman/israel-used-fabricated-images-justify-bombing-al-wafa-hospital>.

147. HRW, 22 July 2014, *op. cit.*

148. *Ibid.*

- Director Alashi, the director of the hospital, testified several times that the Israeli army had explicitly stated its intention to target the hospital. Regarding the events of 17 July, he said:

*“Last night just before 9 o’clock they sent us a warning over the phone that we will bomb the hospital so you need to evacuate [...] But, just a few minutes after the call shells were falling down on the hospital.”*¹⁴⁹

He also recounted the exchange he had with the IDF via a delegate from the ICRC who was seeking to organise the evacuation of the hospital. He said that the ICRC had first told him that, *“The military said that they were not only going to shell the facility, but that it would be fired upon so heavily that they recommended all people in the hospital to be evacuated.”* During a second call he was told that the hospital would not be bombed.¹⁵⁰

Evidence suggests that Israel intended to clear the area before launching its ground offensive. However, until the 17 July, despite the dozens orders to evacuated, the hospital remained working. It was the 17 July shelling that forced the evacuation of the patients and medical staff. Relaying on the order given to the hospital to evacuate for the morning of 16 July, received right after the bombing of 15 July, B’Tselem cautioned that:

*“The military’s demand to evacuate the hospital is unlawful. A hospital is not a military target and the military may not target it even after it is evacuated [...]. There is no other rehabilitative institute in the area where patients can be transferred. These patients require special conditions that cannot be recreated. Transferring hospital patients is complicated and dangerous at the best of times. Under the current conditions in Gaza, the danger is mortal [...] The information B’Tselem has indicates that the hospital was ordered to evacuate as part of the sweeping demand to evacuate the entire neighborhood, in blatant disregard for the fact that evacuating a rehabilitation institution is a complicated task which may put lives at risk.”*¹⁵¹

ii) The bombing of Al Wafa Hospital

On 23 July, the Israeli army bombed Al Wafa Hospital, claiming that fire had been opened on Israeli troops from inside the hospital.¹⁵² Director Alashi received two phone calls from the World Health Organisation (WHO) and the United Nations (UN) relaying a message from the Israeli military that, *“there are activities in the hospital and the Israeli military may take a bigger action against el-Wafa”*¹⁵³. Dr. Alashi explained to both callers that all patients and staff have been evacuated on 17 July, but that the hospital holds seven million dollars worth of essential medical equipment, as well as two safes that could not be transported during the emergency evacuation.¹⁵⁴

149. democracynow, Israel Bombs Gaza’s Only Rehab Hospital: Staff Forced to Evacuate Paralyzed Patients After Shelling, available at: <https://www.youtube.com/watch?v=cH9TmJ4iV9k>; Laura Bain, Al-Wafa hospital in Gaza destroyed, available at: <https://www.youtube.com/watch?v=Z5LcN0XqZiA>.

150. Mondoweiss, 19 July 2014, *op. cit.*

151. B’Tselem, “Military demand to evacuate rehabilitative hospital in Gaza unlawful”, 16 July 2014, available at: http://www.btselem.org/press_release/20140716_al_wafa_hospital

152. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 23 July 2014, 15:00 hrs), 24 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_24_07_2014.pdf.pdf.

153. Electronicintifada, 24 July 2014, *op. cit.*

154. International Solidarity Movement, “Israeli military falsifies photograph to justify bombing el-Wafa hospital in Gaza”, 23 July 2014, available at: <http://palsolidarity.org/2014/07/israeli-military-falsifies-photograph-to-justify-bombing-el-wafa-hospital/>.



FIDH field mission,
October 2014,
Al Wafa Hospital.
© FIDH

Although it was alleged that Palestinian armed groups were operating from the hospital,¹⁵⁵ the razing of the hospital was in any case unjustified based on the evidence. As such, the bombardment appears to have been conducted in a disproportionate manner, constituting in particular a breach of articles 8(2)(b)(i) and 8(2)(b)(iv) of the Rome Statute. During its field mission, FIDH documented the complete destruction of what was the only rehabilitation hospital in Gaza and West Bank.

b) Al Aqsa Hospital (in Deir Al Balah, Middle Gaza District) suffered multiple hits

During the ground offensive that started on 17 July, Al-Aqsa Martyrs Hospital in Deir El Balah, the main hospital in the Middle Gaza district was directly hit numerous times.

These incidents killed three people, including one patient, and injured at least 40 others, with some sources claiming that casualties were as high as 70. Fifteen of those injured were hospital staff. Ambulances tried to evacuate the wounded but had to turn back when shells continued to fall. During evacuation attempts three paramedics were injured (two seriously) and three ambulances and staff vehicles were damaged. Among those evacuated, at least two died from their wounds.

The hospital's computer system was rendered inoperative. Beds, electricity networks, windows and medical equipment at the hospital were damaged. The staff of the hospital showed FIDH the damages that resulted from the strikes. In addition to damage to the main elevator of the hospital, the surgery department, nursery, and several rooms sustained notable damage.

155. IDF, *New Declassified Report Exposes Hamas Human Shield Policy*, 20 August 2014, available at: <http://fr.slideshare.net/IsraelDefenseForces/new-declassified-report-exposes-hamas-human-shield-policy-38180790>.

Al Mezan investigations undertaken during the operation found that Israeli artillery shells first hit houses in the vicinity of the hospital.¹⁵⁶ People rushed to carry the injured to the hospital when a shell hit another adjacent house, leading people to once again move the injured to the hospital. A third house was shelled and people, including dozens of children and women living near the hospital, started to evacuate their homes. Some gathered inside the hospital for shelter. At this point, Al Mezan reports that the Israeli attack “hit the hospital itself, the surgery department on the third floor with one shell, the maternity department with a second, the administration department with a third, and the stair house with a fourth shell”¹⁵⁷.

Evidence and testimony indicates that the Israeli army launched an attack despite risks to the hospital, its staff and patients, continuing to pursue this attack despite knowing that it had hit the hospital, and killed and injured civilians. This was confirmed by Jaber Khalil Abu Rumileh, who supervises ambulance services at Al-Aqsa Martyrs Hospital, and who was there during the attack. He described the circumstances in those terms to Amnesty International:

FIDH field mission, October 2014, 25, Al Aqsa Hospital, damaged bedroom. © FIDH

“On 21 July, at 3 pm, after midday prayer, I was at my workstation in the hospital. While I was working in the emergency unit, I heard a sound of bombing. It shook the hospital – a shelling. It hit the fourth floor, pregnancy and caesarean unit, and then there were a few more hits. People were terrified, patients ran out, doctors could not enter and take out injured and killed people. And then as we were trying to calm people and attend to injuries and others, more shelling hit the building. The third floor was hit. It includes other surgery units, the childcare unit and the heart unit. Four people were killed from these hits. One shell went through the eastern wall on this third floor, through the wall in the middle and hit Nurse Eman Abu Jayyab [...]. We called the Red Cross and journalists. When the Red Cross came, we told them what happened. When they went up to see what happened, the hospital was hit again. They stopped their visit and left. Everyone was asking them for protection. We said that the hospital anywhere in any circumstances should be a safe place.”¹⁵⁸

The Israeli army continued shelling even during ICRC operations. This further evidences that the attack was conducted in full knowledge of its consequences, as the ICRC is permanently coordinating its activities with the Israeli army.



156. Al Mezan Center for Human Rights, “Israeli occupation forces bombs hospitals directly and continue to target medical staff, Al Mezan condemns and calls for the international community to act in order to cease the aggression and to protect civilians”, 22 July 2014, http://www.mezan.org/en/details.php?id=19262&ddname=crimes&id_dept=9&id2=9&p=center
157. *Ibid.*
158. Amnesty International, 7 August 2014, *op. cit.*



In a press release explaining the events of 21 July at Al Aqsa Hospital, representatives of the Israeli army said that their *“initial investigation suggested that a cache of anti-tank missiles was stored in the immediate vicinity of the hospital. This cache was successfully targeted by IDF forces.”*¹⁵⁹

This justification is concerning and may be one of the reasons why civilian losses were so significant during Operation Protective Edge. The IDF stated that they had launched the attack because *“initial investigation suggests”* the presence of weapons in the neighbourhood. It seems then that further investigation did not lead to any certainty regarding the state of facts. Civilian objects cannot become legitimate military objectives simply on the basis of suggestion. In cases of doubt, military forces must act in favour of civilian protection.¹⁶⁰ In stating that the cache *“was successfully targeted”*, the IDF offered no further explanation as to why the hospital was subsequently damaged and civilians killed and wounded.

FIDH field mission,
October 2014, 25,
Al Aqsa Hospital,
surgery room.
© FIDH

On this point, the same press release cites another IDF statement which added that,

*“Civilian casualties are a tragic inevitability of the brutal and systematic exploitation of homes, hospitals and mosques in Gaza. While the IDF takes every possible measure to minimize civilian casualties, Hamas and its deliberate tactic of embedding terrorist activities within the urban environment is ultimately responsible.”*¹⁶¹

The IDF never claimed that Al Aqsa Hospital was used outside its humanitarian function to commit *“acts harmful to the enemy”*, nor did it cast such an aspersion on the hospital’s medical personnel. As a result, the hospital and its medics were not legitimate targets. If the hospital premises had been used to launch an attack, the hospital should in any case have been warned and effectively evacuated in advance.¹⁶² This did not occur.¹⁶³

159. CNN, “In Gaza, attack on hospital delivers devastation and grief” by Kareem Khadder and Tim Lister, CNN, July 22, 2014, available at: <http://edition.cnn.com/2014/07/21/world/meast/gaza-hospital-attack-video>.

160. Additional Protocol I to the Geneva Conventions, Article 52(3).

161. CNN, “In Gaza, attack on hospital delivers devastation and grief” by Kareem Khadder and Tim Lister, CNN, July 22, 2014, available at: <http://edition.cnn.com/2014/07/21/world/meast/gaza-hospital-attack-video>.

162. The Fourth Geneva convention Article 18 states that ‘Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict.’ Article 13(1) of Additional Protocol I states that “[T]he protection to which civilian medical units are entitled shall not cease unless they are used to commit, outside their humanitarian function, acts harmful to the enemy. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time-limit, and after such warning has remained unheeded.”

163. During its field mission in October, FIDH met the staff of the hospital and a relative of one of the injured during 21 July 2014. FIDH was informed that there no advance warning was given. Only the possibility that El Najar Hospital would need to evacuate was relayed, and there was no indication that Al Aqsa hospital would come under fire.

Conclusion

The cases of attacks on medical facilities, transport and personnel are not limited to those described above, and other cases require attention.¹⁶⁴ The Beit Hanoun hospital, for example, was reportedly hit multiple times between 18 and 26 July, injuring a nurse and an international visitor. An ambulance worker was killed while trying to rescue the wounded. The Beit Hanoun hospital was completely evacuated and subsequently closed, on 26 July.¹⁶⁵ The widespread destruction of medical infrastructure will have lasting impact on the civilian population in the region, which already suffered from limited access to medical equipment and supplies prior to the 2014 hostilities.

Concretely, deliberate attacks on hospitals, medical staff or medical transport are prosecutable as war crimes under Article 8 of the Rome Statute (Article 8(2)(b)(ix) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives; and 8(2)(b)(xxiv) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law). Israel's tendency to disregard its responsibility to provide special protection for medical facilities and personnel, as well as to grant access to humanitarian relief, is in clear violation of international humanitarian law. Further, destroying healthcare facilities and denying access to medical assistance within the context of massive killing is consistent with the elements of extermination as a crime against humanity under Article 7(2)(b) of the Rome Statute.

C) Attacks on structures providing shelter to internally displaced populations

Palestinians have been obliged to turn to UNRWA shelters due to the widespread offensive. Given the dire living conditions in official shelters, civilians had primarily sought shelter in homes with their friends and relatives. However, Israel's ground incursion caused an exponential growth of IDPs.

164. Al Mezan Center for Human Rights, "IOF War Crimes in Gaza: 758 Killed including 173 Children and 92 Women Artillery Attack on IDP Shelters Kills and Injures Scores, Al Mezan: International Community Failure to Protect Civilians Scandalous", 24 July 2014, http://www.mezan.org/en/details.php?id=19270&ddname=IOF&id_dept=9&id2=9&p=center; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 30 July 2014, 15:00 hrs), 31 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_31_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 3 August 2014, 15:00 hrs), 4 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_04_08_2014.pdf; Palestinian Ministry of Health, Ministry of Health Emergency Operation Room Sitrep on Gaza August 31st, 2014, August 2014, available at: <http://www.moh.ps/attach/761.pdf>; Amnesty International, Document - Israel and the Occupied Palestinian Territories: Doctors, patients and hospitals under attack, 4 August 2014, available at: <http://www.amnesty.org/en/library/asset/MDE15/021/2014/en/55335cb9-4e5a-4136-81c8-76ce8eaff9ef/mde150212014en.html>.

165. Al Mezan Center for Human Rights, 22 July 2014, *op. cit.*; Al Mezan Center for Human Rights, 26 July 2014, *op. cit.*; "Last night Beit Hanoun Hospital came under heavy Israeli shelling while 80 people, including medical staff, three patients, two International Solidarity Movement volunteers, and many civilians were trapped terrified inside. One Swedish activist received cuts to the head, and another person received minor injuries, although the hospital was severely damaged. Numerous calls for help throughout the afternoon and evening by the Deputy Minister of Health Gaza to the International Committee of the Red Cross (ICRC) were fruitless. Intervention by the United Nations Special Coordinator for the Middle East Peace Process Robert Serry eventually achieved an undertaking by Israeli military after midnight not to fire directly upon the hospital. All those inside were finally evacuated to safety this morning under the aegis of the Ministry of Health after the commencement of the 12-hour humanitarian ceasefire. Beit Hanoun is the second Gazan hospital to have been evacuated and completely closed down in 48 hours due to damage from Israeli strikes", Press release, Gaza Ministry of Health, July 26th 2014, available at: <https://syria360.wordpress.com/2014/07/26/gaza-ministry-of-health-beit-hanoun-hospital-came-under-heavy-israeli-shelling/>

Overcrowded UNRWA shelters progressively became the final refuge for the frightened, dispossessed and distressed population. However, these shelters were also targeted by Israeli fire. OCHA stated that “[repeated attacks on shelters are causing widespread fear among IDPs. Palestinians in Gaza increasingly feel that there is no safe place to shelter]”. The Special Representative of the Secretary-General for Children and Armed Conflict added that “After three weeks of conflict, no one can doubt that there are no safe places for the children of Gaza.”¹⁶⁶

Damage to schools and shelters was regularly reported during the conflict. According OCHA, on 13 August, 230 schools (140 governmental and 90 UNRWA schools) had been affected by shelling and were in need of repair, including 25 schools that had been severely damaged and required reconstruction.¹⁶⁷ Among those schools, many were used as shelters.

UNRWA reported having found rockets in one of its schools three times.¹⁶⁸ However, such cases only occurred in vacant schools. This point is highly material to Israel’s claim that civilian casualties were globally justified because Palestinian armed groups use civilians as human shields. The use of vacant UNRWA premises to hide arms cannot explain the significant number of civilians killed and wounded. Moreover, Israel itself has been reported by *the Times* to have used school premises for military purposes, having reportedly turned an “abandoned school into [a] command base”. As such, it has occupied at least one school in Gaza (the Beit Hanoun secondary school for boys) for military ends, leaving behind bullet casings and rations.¹⁶⁹

Among different incidents reported, the cases of three UNRWA shelters have attracted particular international attention:

- A primary coeducation school in Beit Hanoun, which was hit on 24 July whilst sheltering about 200 persons. A dozen civilians were killed and approximately one hundred injured.¹⁷⁰
- The girls’ elementary school in Jabalya, hit whilst sheltering over 3,000 people. Twenty died, including three children.¹⁷¹

166. OCHA, 4 August 2014, *op. cit.*

167. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 13 August 2014, 08:00 hrs), 13 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_13_08_2014.pdf.

168. UNRWA, “UNRWA strongly condemns placement of rockets in school”, 17 July 2014, available at: <http://www.unrwa.org/newsroom/press-releases/unrwa-strongly-condemns-placement-rockets-school#>; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 23 July 2014, 15:00 hrs), 24 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_24_07_2014.pdf.pdf; UNRWA, “Cache of rockets found in UN school in Gaza”, 29 July 2014, available at: <http://www.unrwa.org/newsroom/press-releases/cache-rockets-found-un-school-gaza>; UNRWA, “UNRWA condemns placement of rockets, for a second time, in one of its schools”, 22 July 2014, available at: <http://www.unrwa.org/newsroom/press-releases/unrwa-condemns-placement-rockets-second-time-one-its-schools>.

169. HRW, “Israel: In-Depth Look at Gaza School Attacks, 45 People, Including 17 Children, Killed in 3 Attacks”, 11 September 2014, available at: <http://www.hrw.org/news/2014/09/11/israel-depth-look-gaza-school-attacks>.

170. Al Mezan Center for Human Rights, “New IOF War Crime: Attack on UNRWA IDP Shelter Kills at least 10 and Injures over 113 IDPs; 20 Critically”, 24 July 2014, available at: http://www.mezan.org/en/details.php?id=19267&ddname=IOF&id_dept=9&id2=9&p=center; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 24 July 2014, 15:00 hrs), 25 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_25_07_2014.pdf; Al Mezan Center for Human Rights, “Al Mezan Condemns IOF Attack on UN IDPs Shelter, On Day 18 of IOG Aggression Death Toll Reaches 828 Palestinians, Al Mezan: 79% of the Victims are Civilians; 173 Children and 92 Women”, 25 July 2014, available at: http://www.mezan.org/en/details.php?id=19272&ddname=IOF&id_dept=9&id2=9&p=center; Al Mezan Center for Human Rights, 23 July 2014, *op. cit.*; HRW, 11 September 2014, *op. cit.*

171. *Ibid.*

- An UNRWA school hosting about 3,000 people in Rafah, hit on 3 August, killing a dozen people, and injuring approximately 45.¹⁷²

The exact location of each of these shelters was well known to the Israeli forces because of demarcation flags and regular UN updates to the Israeli military on the coordinates of these localities. The Beit Hanoun shelter had also been hit three times by Israeli forces before 24 July.¹⁷³

In each case, the IDF used the same argument: it claimed the presence of armed combatants engaged in hostilities in the vicinity of the shelter – whether actively launching attacks or simply passing the locality, launching fire or just passing by. Thus, speaking of Beit Hanoun, an IDF spokesperson stated “*The IDF regrets any harm to citizens who are not involved in the fighting but continually emphasizes that this occurs as a sad result of Hamas’ choice to use civilians as human shields.*”¹⁷⁴ However, in the case of the Beit Hanoun shelter, Israel opened a criminal investigation on the basis of “*reasonable suspicion that the incident involved a deviation from IDF regulations.*”¹⁷⁵

The launch of rockets from actors near the shelter is contested by witness testimonies.¹⁷⁶ Moreover, claims that combatants were just passing the vicinity without opening fire¹⁷⁷ cannot justify putting thousands of civilians at risk. Such attacks are clearly excessive compared to the concrete and direct overall military advantage anticipated. Attacks on schools and shelters housing civilians who have been displaced in Gaza constitute attacks on the civilian population, either directly or through in the knowledge that such attack will cause excessive incidental loss of life or damage to civilian objects, as well as attacks on buildings dedicated to education without demonstrating that they are legitimate military objectives, both of which violate Rome Statute Article 8, as per provisions listed above.

D) Attacks on objects indispensable for civilian survival

The shellfire that knocked out the Gaza Strip’s only electrical power plant causing blackout on 29 July 2014 worsened the humanitarian crisis for the territory’s 1.7 million people. Shortly after the attack was reported, Israel denied having targeted the plant but said its forces may have hit it accidentally.¹⁷⁸ Nevertheless, several elements indicate intentionality on behalf of the Israeli army. These include: repeated attacks on the power plant, the inability of workers to obtain

172. OCHA, 4 August 2014, *op. cit.*; UN OHCHR, A/HRC/28/80/Add.1: Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1, Addendum, The human rights situation in the Occupied Palestinian Territory between 12 June and 26 August 2014, including the escalation in hostilities between the State of Israel and Palestinian armed groups in Gaza, 26 December 2014, available at: <http://www.google.be/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&ved=0CDcQFjAD&url=http%3A%2F%2Fwww.ohchr.org%2FDocuments%2FCountries%2FSPS%2FA.HRC.28.80.Add.1.doc&ei=uOi8VL7HCljXaqr8gbAP&usg=AFQjCNHVkO7H34ITjlw6PZ4r4okh9QcRbw&bvm=bv.83829542,d.d2s>; HRW, 11 September 2014, *op. cit.*

173. Al Mezan Center for Human Rights, 24 July 2014, *op. cit.*

174. Haaretz, “IDF: UN school yard was empty at time of Israeli strike”, 27 July 2014, available at: <http://www.haaretz.com/news/diplomacy-defense/1.607384>.

175. Decisions of the IDF Military Advocate General regarding Exceptional Incidents that Occurred during Operation ‘Protective Edge’ – Update No. 2, 7 December 2014, available at: <http://www.mag.idf.il/163-en/Patzar.aspx>.

176. HRW, “Dispatches: Gaza’s Schools on the Battlefield”, 30 July 2014, available at: <http://www.hrw.org/news/2014/07/30/dispatches-gaza-s-schools-battlefield>.

177. *Ibid.*

178. HRW, “Gaza: Widespread Impact of Power Plant Attack, Curtailed Sewage Treatment, Food and Water Supply, Hospital Operations”, 10 August 2014, <http://www.hrw.org/news/2014/08/10/gaza-widespread-impact-power-plant-attack>



*FIDH field mission,
October 2014,
power plant.
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official engagement on the immunity of the power plant despite previous shelling, the fact that the legality of attacking the power plant was discussed in the Knesset only a few days before the attacks; that in the midst of the ground incursion, the necessary repairs and maintenance could not take place due to constant shelling; and several instances of direct targeting of personnel.¹⁷⁹ Indeed, the attack on the power plant appears to have been only one component of a widespread and systematic policy of attacking electricity and water infrastructure as well as other means of subsistence.

1. Attack of the sole power plant of the Gaza Strip

Attacks on Gaza's power plant, located in the north-east of the Al Nuseirat refugee camp, in the Middle Gaza district, occurred repeatedly until 29 July, when the resultant damage caused its shut-down.

Available reports outline that the power plant had been hit by Israeli forces on 22 July, 23 July, 24 July, 28 July and 29 July 2014.¹⁸⁰

Among the available testimonies, Hisham Abdullah Mohamed al Assar, who has worked on the power plant site for the Gaza Power Company since 2004, recounted his knowledge of the attacks of 23 and 24 July to Al Mezan on 13 January 2015:

¹⁷⁹. OCHA, 9 September, *op. cit.*

¹⁸⁰. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 23 July 2014, 1500 hrs), 24 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_24_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 24 July 2014, 1500 hrs), 25 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_25_07_2014.pdf; Al Mezan Center for Human Rights, "Bloody Eid Al Fitr Day Due to IOF Attacks on Civilian Structures Al Mezan: Death Toll Reaches 1,194 Palestinians; 79% Civilians; 282 Children and 147 Women; Full Blackout across Gaza due to Attacks on Power Plant", 29 July 2014, available at: http://www.mezan.org/en/details.php?id=19281&ddname=IOF&id_dept=9&id2=9&p=center.

“Around 18:00 on the evening of Thursday 24 July 2014 I reached the company in the bus. We were working at that time according to the emergency schedule, which means working for 24 hours then having a rest for 72 hours. When I reached work I met my colleagues, the engineers working on the earlier shift, in order to start my work. They told me that the company headquarters got hit during a bombardment at around 10:00 am on Thursday 24 July 2014. The company’s main building got damaged. I investigated and saw a hole 2 meters wide in diameter, and found damage to the building and offices. They told me that generator number 13 was damaged during the bombardment. I investigated and found it damaged from the eastern side. All the oil and cooling lines got damaged, as well as the electricity wires and control wires. There was also damage to the water vapor and air lines on Turbine system number 10. While inspecting the site, my colleagues, including engineer Hassan Ouida¹⁸¹, and engineer Badr alDin Mdawakh¹⁸², told me that the company HQ was also bombarded on the morning of Wednesday 23 July 2014. They told me that the bombardment targeted the water processing unit known as ‘Aqua’. When I inspected the site I saw many water lines damaged, as well as damage to the storage tank used to keep the spare parts of the station. The Aqua site and an admin building are at the western side of the station. Then I got on with my shift, and the station was producing at the time 45-50 Mega Watts. This was the only power source at the time feeding Gaza with electricity, beside the lines from Egypt accounting for 27 Mega Watts. I stayed with my colleagues at my post, and the fuel was reaching the station without any obstructions. Then around 18:00 on Friday 25 July 2014, I left with my colleagues. We left the site after I handed over the work to the next shift.”

Hisham further explains that it was impossible to obtain any commitment that the power plant would not be targeted again. He said that several measures were taken to ensure that work-related transit could not be mistaken for something other than civilian activity:

“Around 18:00 on Monday 28 July 2014, I reached the company site to start the usual tasks. I was with my colleagues in the shift. We were seven engineers. We were in the control room. We had tried to get all tasks outside the room done as quickly as possible and then get back to the control room, fearing that the bombardment might start at any moment again. I asked the management several times to give us guarantees that we would be able to get back to our houses and then back to work safely, but the management told us that there were no guarantees for our lives at all. We took some precautions, including putting stickers on the company vehicles to show that we are the power company and that these are the company’s cars. There is a flag shows that it is the Gaza Power Company. It’s very clear, above the admin building and over the security room.”

Hisham concluded by recalling the last attacks:

Around 21:00 on Monday 28 July 2014, while I was in the control room I heard explosions close by. However, I was afraid and didn’t go out. I stayed in the control room with the crew. The explosions kept on happening, and I kept watching and supervising the systems at the station through the control monitors in the control room, which show the status of

181. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 27 August 2014, 08 :00 hrs), 27 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_27_08_2014.pdf.

182. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 9 August 2014, 0800 hrs), 9 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_09_08_2014.pdf.

various systems at work. Suddenly, at 21:00 on Monday 28 July 2014 I heard the sounds of a bombardment, and a very loud explosion, followed by very loud whistling sounds. Then I saw on the monitor that one of the vapor units (turbine 20) was bombarded, it was working at the time, and the bombardment took several minutes, and the whistling voice kept on.

Waiting for evacuation, Hisham experienced the final shelling:

Around 7:00 on Tuesday 29 July 2014, I heard explosions close to the station. I kept watching what was happening on the screens. Around 7:15 the same day I got a call from the security staff in their offices at the eastern gates saying that one of the fuel tanks had gotten damaged and caught fire. I asked the security personnel to come at once to the control room. It was scary, we kept hearing huge explosions. Then the safety crew came (they are two people) in order to extinguish the fire, but they couldn't because the fire was too big. Then the fire extinguishing room got burned and the explosions returned. At that time the pure water tank (demi tank) got bombarded, which is adjacent to the control room. I heard the explosion and knew it was next door.

I returned after 10 days to inspect the damage. The fuel area, and the big tanks, which are two, were destroyed but the smaller tank got partial damage only. There was damage to the processing station, the admin building, the hospitality building, and the station stayed out of service until 16 November 2014. At that date it managed to generate power once again.

The power plant's location was well known. Indeed, the power station occupies an area of 33,000 square meters, and several precautions had been taken to clearly demarcate its civilian use. It had already been hit by the Israeli army in the previous war. Since 23 July 2014 GPP engineers had been reported by OCHA as also "*seeking guarantees from the Israeli authorities that they will not be targeted while conducting repairs*" and exposed that ICRC planning "*daily coordination for the GPP team to go to the power plant*"¹⁸³. Repeated strikes between 22 and 29 July and the refusal to guarantee the security of the plant, do not support the assertion that these strikes were accidental.

Further cause for concern are discussions reported by Haaretz as having been put on the Knesset agenda on 15 July regarding a legal opinion entitled "Legal Opinion Concerning Supply of Electricity and Water to the Gaza Strip". This discussion concerned the legality of cutting off electricity and water in Gaza and claimed that Israel was permitted to attack Gaza's power plant. On the eve of the ground offensive and a few days before the repeated strikes on the power plant, its attack was discussed. On 20th July a group of 15 leading legal experts in international law wrote to the Knesset Foreign Affairs and Defense Committee and to the Attorney General to contest the legality of such an attack.¹⁸⁴ They firmly contested the legal opinion that Israel is permitted to attack power plants in Gaza, impede repairs and cut water and electricity supplies.

Israel justified its attacks based on a photograph they released on 30 July, following the closure of the plant due to damage from bombings, which claimed to evidence that armed groups were launching rockets from the vicinity of the plant.

183. OCHA, 24 July 2014, *op. cit.*

184. The Knesset, Members of the Foreign Affairs and Defense Committee, Re: Legal Opinion Concerning Supply of Electricity and Water to the Gaza Strip, 20 July 2014, available at: <http://gisha.org/UserFiles/File/publications/letters/letter-en-20-7-14.pdf>; see also: <http://opiniojuris.org/2014/07/26/can-israel-cut-water-power-gaza/>.



As a consequence of Israeli attacks, the only functioning power plant in Gaza was shut down. This led to a region-wide blackout during the ongoing continuous and indiscriminate bombing of houses, hospitals and shelters, while rescue teams were being prevented from reaching those in distress. Moreover, the bombardment of the power plant caused a rapid deterioration in the humanitarian conditions in the Gaza Strip affecting private households, companies and public service provision, including water, sanitation, and health facilities,¹⁸⁵ which had already been operating in dire conditions. Water supplies and sewage treatment – both of which require electricity – became impossible. On the 30 July, Gaza’s sole water provider, the Coastal Water Utility, announced that it was wholly unable to provide water or sanitation services.¹⁸⁶ Moreover, food supplies were affected by the shutting off of refrigerators and the reduction of bread production. The maintenance of communications also became impossible¹⁸⁷, preventing people from getting information needed for their protection.¹⁸⁸ Hospitals and other vital facilities faced extreme difficulties in carrying out their duties.¹⁸⁹ IDP shelters were also reported as unable

*FIDH field mission,
October 2014,
power plant.
© FIDH*

185. PCHR, “On the 27th Day of the Israeli Offensive: Rafah Under Israeli Fire; War Crimes Committed against Palestinian Civilians; Complete Families Annihilated”, 3 August 2014, available at: http://www.pchrgaza.org/portal/en/index.php?view=article&catid=36%3Apchrpressreleases&id=10561%3Aon-the-27th-day-of-the-israeli-offensive-rafah-under-israeli-fire-war-crimes-committed-against-palestinian-civilians-complete-families-annihilated&tmpl=component&print=1&layout=default&page=&option=com_content&Itemid=194; OCHA, 31 July 2014, *op. cit.*

186. Al Mezan Center for Human Rights, 1 August 2014, *op. cit.*

187. Al Mezan Center for Human Rights, 29 July 2014, *op. cit.*

188. OCHA, 9 September 2014, *op. cit.*

189. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 5 August 2014, 08:00 hrs), 5 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_05_08_2014.pdf; Al Mezan Center for Human Rights, 29 July 2014, *op. cit.*

to tend to IDP's basic needs. UNRWA warned of the risk of the imminent spread of disease owing to the cessation of water and sanitation services.¹⁹⁰ Constant shelling prevented repairs, prolonging the blackout and severe water shortages in households.¹⁹¹ The use of fuel supplies to run the generators for water wells, hospitals, shelters, bakeries, etc. became a key priority¹⁹² and less fresh produce was available on the market, triggering significant price increases for some vegetables.¹⁹³

Conclusion

It has been argued that the power plant could be considered a dual-use object (civilian objects that also benefit an armed force), consequently rendering it a legitimate military objective. However, in such a case the conversion of the objective into a military objective would need to be clearly documented and justified. The destruction of the region's sole power plant severely undermines the functioning of healthcare facilities, water systems and sewage treatment. Thus, even if the power plant were to be considered a dual-use object, an attack would appeal to the principle of proportionality (i.e. that the expected harm to civilians and civilian objects caused by the attack versus the concrete military advantage gained)¹⁹⁴. It appears infeasible that an attack with such dire civilian consequences would meet the requirements of proportionality in this case. Rather, its destruction is consistent with war crimes under Article 8(2)(a)(iv) of the Rome Statute. Moreover, the attack on the power plant contributed to the infliction of conditions of life consistent with extermination as a crime against humanity under Article 7(1)(b).

2. Attacks against other civilian means of subsistence

a) Attacks on electricity supplies beyond Gaza's only power station

By 11 July, the UN had already condemned "*the scope of damage sustained by civilian infrastructure as a result of bombardments*" noting that they had left "*75 per cent of Gaza City without power*"¹⁹⁵. Gaza's electricity infrastructure was one of the Israeli army's first targets when it launched its ground incursion. Reports outlined that the first day of the ground operation saw related shelling result in extensive damage to electricity infrastructure, including up to ten lines from Israel, from which most electricity in the Gaza Strip is purchased. Even before the power plant's shut-down, extensive destruction resulted in 80 per cent of the population reportedly only receiving electricity for four hours per day.¹⁹⁶ Damage was constantly reported thereafter.¹⁹⁷

190. Al Mezan Center for Human Rights, 1 August 2014, *op. cit.*

191. Al Mezan Center for Human Rights, "As International Silence Continues, Gaza Casualties Continue to Mount due to IOF Attacks on Homes and Shelters, Al Mezan: Death Toll at 1,764; 82.5% Civilians; 399 Children and 226 Women", 3 August 2014, available at: <http://www.mezan.org/en/a.php?id=19295>.

192. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 29 July 2014, 15:00 hrs), 30 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_30_07_2014.pdf; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 31 July 2014, 15:00 hrs), 1 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_01_08_2014.pdf.

193. OCHA, 1 August 2014, *op. cit.*, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_01_08_2014.pdf.

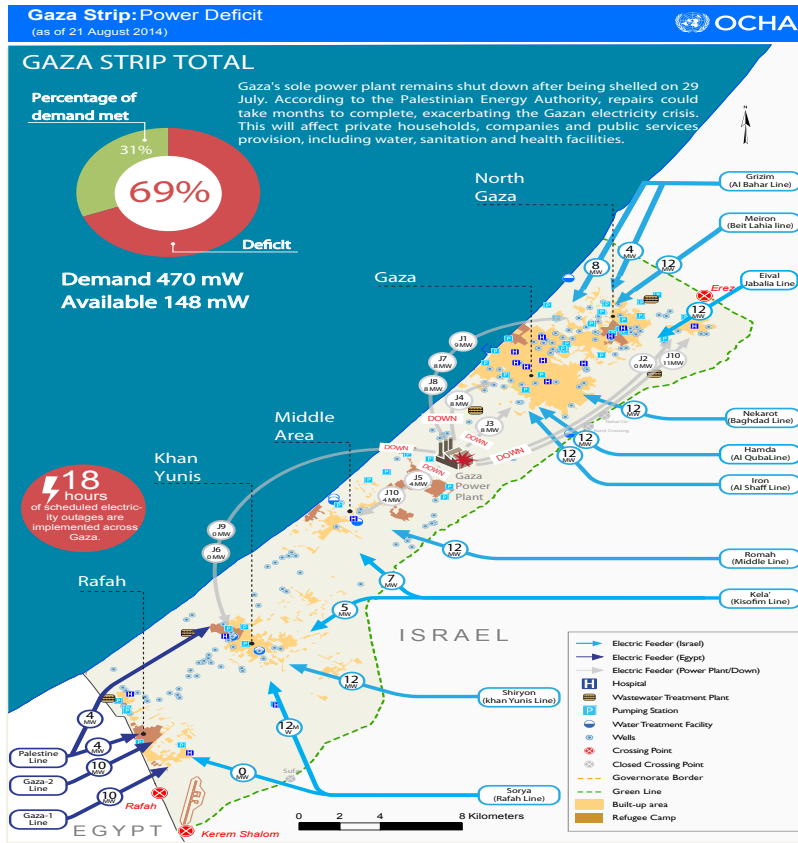
194. According to the position of the International Committee of the Red Cross (ICRC), power plants may become military objectives only if they are "mainly for military consumption." In the case of Gaza Strip, things are clearer yet.

195. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 12 July 2014, 15:00 hrs), 12 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_12_07_2014.pdf.

196. OCHA, 22 July 2014, *op. cit.*; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 18 July 2014, 15:00 hrs), 19 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_19_07_2014.pdf; OCHA, 26 July 2014, *op. cit.*; OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 27 July 2014, 15:00 hrs), 28 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_28_07_2014.pdf.

197. OCHA, 3 August 2014, *op. cit.*; Al Mezan Center for Human Rights, "IOF Crimes Continue to Claim Civilian Lives

The worst affected areas, such as Beit Hanoun, Eastern Gaza City (Ash Shujai'yeh), Khuza'a and Eastern Rafah, remained almost completely without supply.¹⁹⁸



Source OCHA, Gaza Strip: power deficit¹⁹⁹

Water and sanitation services in the Gaza Strip were already at a critical levels prior to the recent war.²⁰⁰ Fuel shortages over the past year have severely affected the operation of desalination and wastewater treatment plants. Israeli restrictions on the entry of construction materials into Gaza have put essential sanitation infrastructure projects on hold.²⁰¹ UN stated:

“Gaza already faced a challenging situation in regards to water and wastewater prior to the escalation. Water and wastewater services were further hampered during the war, due to aggravations of electricity and fuel shortages and the inaccessibility of many wells, pumping stations, and other facilities within the Israeli declared buffer zone.”²⁰²

in Gaza; Ground Invasion Underway since last Night, Death Toll Rises to 266 including 56 Children and 33 Women”, 18 July 2014, <http://www.mezan.org/en/a.php?id=19244>; Al Mezan Center for Human Rights, 19 July 2014, *op. cit.*; 198. OCHA, 3 October 2014, *op. cit.*

199. OCHA, “UN gaza crisis appeal”, August 2014, available at: http://www.ochaopt.org/documents/gaza_crisis_appeal_2014.pdf.

200. OCHA, 29 October 2014, *op. cit.*; OCHA, 3 October 2014, *op. cit.*

201. Oxfam, *Cease Failure. Rethinking seven years of failing policies in Gaza*, 27 August 2014, available at: http://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-cess-failure-gaza-failing-policies-270814-en.pdf.

202. OCHA, 4 September 2014, *op. cit.*

The extensive Israeli aerial bombardment, naval shelling and artillery fire during the last round of hostilities had devastating results for public infrastructure, including water and sanitation.²⁰³ Water supplies to around 1.5 million people – 80 per cent of Gaza’s population – was cut off or severely restricted. Only 15 to 25 per cent of households received running water every day and 75 to 90 per cent of Palestinians in Gaza were forced to buy water from private vendors, with some spending as much as a third of their income on water.²⁰⁴ The destruction of sewage plants, the lack of clean water, and the severely overcrowded shelters, combined to raise fears of a public health crisis. Fatma, one IDP displaced to an UNRWA school in Al Shujaiya explained:

*“Due to the Israeli bombardment, we had to leave our houses and sought shelter in this UNRWA school. There are nearly 3,000 here with us. There is no tap water, which we use for washing and hygiene, but also a lack of drinking water. There are many cases of children with diarrhoea and fever. The lack of water creates hygiene problems in the bathrooms. The people working in the school are doing their best, but if the situation continues, we will face a catastrophe.”*²⁰⁵

Civilians are still suffering the consequences of this mass destruction today. An initial Damage Assessment Report (DAR) by the Coastal Municipalities Water Utility (CMWU) indicates that 12 per cent of wells have been destroyed or damaged, whilst five per cent of main lines, three per cent of distribution lines, and 12 per cent of household connections have been damaged.²⁰⁶ Between 20 and 30 per cent of water and sewage networks remain damaged, mostly in the former Israeli-imposed three-kilometer buffer zone. Some 30 to 50 per cent of water storage capacity at the household level is damaged. Bulldozer damage exacerbated the impact of bombing and artillery fire.²⁰⁷ The cost of direct damage is estimated at US\$ 34 million.²⁰⁸



FIDH field mission, October 2014, destruction of water infrastructure. © FIDH

As of October 2014, 26 water wells and 16 public water supply tanks were still damaged; 46.8km of water networks and 17.5km of wastewater networks destroyed;²⁰⁹ and 20 to 30 per cent of households, or 450,000 people, remained unable to access municipal water due to damage and/or low pressure.²¹⁰ Additionally, households without electricity and/or supplemental pumps could still not fill rooftop storage tanks when water was available.²¹¹

203. OCHA, 29 October 2014, *op. cit.*

204. Oxfam, *Cease failure. Rethinking seven years of failing policies in Gaza*, 27 August 2014, *op. cit.*, available at: http://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-cease-failure-gaza-failing-policies-270814-en.pdf

205. *Ibid.*

206. *Ibid.*

207. *Ibid.*; OCHA, 9 September 2014, *op. cit.*

208. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 19 August 2014, 08:00 hrs), 19 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_19_08_2014.pdf.

209. State of Palestine, *National recovery and reconstruction plan for Gaza 2014-2017*, International Conference in Support of the Reconstruction of Gaza, October 2014, http://reliefweb.int/sites/reliefweb.int/files/resources/National%20Early%20Recovery%20and%20Reconstruction%20Plan%20for%20Gaza%202014-2017_FINAL%20%20%20.pdf.

210. OCHA, 3 October 2014, *op. cit.*

211. *Ibid.*



b) Obstruction of reconstruction and repairs

FIDH field mission,
October 2014,
humanitarian
supply.
© FIDH

On 21 July, it was reported that “areas in the new three km no-go zone have not been accessible for repairs, while also likely to be inaccessible to water trucking due to the unsafe security situation. [...] Humanitarian access to allow for repairs of wells, sewage pumping station and water and sewage lines is urgently needed to avert the outbreak of public health diseases”²¹². The UN denounced “The lack of protection during damage repair, operation and assessment remains the biggest constraint, impeding the immediate repair of water and waste water pipelines.”²¹³

Indeed, on 30 July, the Coastal Water Utility, announced a halt in the utility’s services due to the exhaustion of fuel reserves, full blackout, and frequent attacks on personnel as they tended to water facilities.²¹⁴ Reports persistently outlined how reparations would be followed by new destruction occasioning the need for renewed reparations but that there was a general inability to carry out such work, and repeated casualties among workers on duty.²¹⁵ By 26 August, at least 14 electricity, water and waste water technicians employed by local utilities had been killed during Israeli attacks since the start of the Gaza emergency, and at least ten others had

212. OCHA, 22 July 2014, *op. cit.*

213. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 28 July 2014, 15:00 hrs), 29 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_29_07_2014.pdf

214. Al Mezan Center for Human Rights, 1 August 2014, *op. cit.*

215. OCHA, 12 July 2014, *op. cit.*; OCHA, 30 July 2014, *op. cit.*; OCHA, 1 August 2014, *op. cit.*; OCHA, 5 August 2014, *op. cit.*; Al Mezan Center for Human Rights, “IOF Attacks on Gaza Continue: 103 Killed, over 600 Injured and 409 Houses Destroyed, Shameful Silence of International Community Must Stop”, 11 July 2014, available at: <http://www.mezan.org/en/a.php?id=19215>; Al Mezan Center for Human Rights, *op. cit.*; OCHA, 12 July 2014, *op. cit.*; Al Mezan Center for Human Rights, “IOF Attacks Kill 194 killed, 95 inside of or in the Vicinity of Their Houses, Al Mezan Demands International Protection for Civilians in Gaza”, 15 July 2014, <http://www.mezan.org/en/a.php?id=19232>.

been injured.²¹⁶ According to the UN: “*Necessary repairs and maintenance could not take place due to hostilities and, in several instances, the direct targeting of personnel.*”²¹⁷

On 5 August, OCHA reported that “*four of the ten feeder lines supplying electricity from Israel to Gaza were operational, including three in northern Gaza and one in Khan Younis. The rest of the lines require repairs to be conducted on the Israeli side. Gaza’s sole power plant remains shut down.*”²¹⁸ Moreover, on 8 and 9 August it was reported that “*localities in the middle area, which depended exclusively on the GPP, are receiving zero electricity*”²¹⁹. OCHA stated that “*due to the extensive damage sustained to the internal distribution network*”, which could not yet be repaired, “*electricity supply to households has seen only a minor improvement*”²²⁰. The most heavily bombed areas, like Shuja’iyya, Beit Hanoun, Khuza’a and east of Rafah were the most affected.²²¹

On Tuesday, 26 August 2014, just before Operation Protective Edge reached its end, a vehicle belonging to the Gaza Electricity Distribution Corporation (GEDCO) traveling in Beit Lahia town was directly hit by an Israeli air strike, killing two workers²²² on their way to repair transmission lines damaged during previous bombardments, and injuring three passers-by.²²³

Power plant and water and sanitation facilities, are objects indispensable to the survival of the civilian population and their destruction has a significant impact on the population’s enjoyment of human rights, including the rights to health, water and an adequate standard of living.²²⁴

c) Food and income

Operation Protective Edge saw most families lose productive assets within or next to their destroyed homes: grocery shops, supermarkets, trees and livestock.²²⁵ Thousands of factories and commercial establishments were damaged or destroyed and the agricultural and fishing industries are in ruins. Unemployment, which was already at unacceptably high levels, has been exacerbated.²²⁶ The most frequently identified concerns regarding food security and nutrition included loss of sources of income and livelihoods due to severe damage to agricultural lands, death/loss of animals, inability to access agricultural land – particularly in the Israeli-imposed three-kilometer buffer zone, and loss of employment.²²⁷ Farmers, fishermen and herders have

216. OCHA, 28 August 2014, *op. cit.*

217. OCHA, 28 August 2014, *op. cit.*

218. OCHA, 5 August 2014, *op. cit.*

219. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 7 August 2014, 08:00 hrs), 7 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_07_08_2014_.pdf

220. *Ibid.*; OCHA, 9 August 2014, *op. cit.*

221. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 11 August 2014, 08:00 hrs), 11 August 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_11_08_2014.pdf.

222. They have been identified as Mohammed Thaher, 49, and Tamer Hamad, 24.

223. They have been identified as Marwan Ahmad, 27; Ahmad Al Shenbari, 21, and a child, Mohammed Sulaiman, 8. Al Mezan Center for Human Rights, “Al Mezan Calls for Accountability for War Crimes and an End to Israel’s Occupation of the Occupied Palestinian Territory, Death Toll Rises to 2,168: 521 Children and 297 Women Since 7 July 2014”, 27 August 2014, available at: http://www.mezan.org/en/details.php?id=19514&ddname=IOF&id_dept=9&id2=9&p=center; OCHA, 27 August 2014, *op. cit.*

224. Rule 55, ICRC Customary IHL Study; Articles 11 and 12, ICESCR.

225. OCHA, Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 15 July 2014, 15:00 hrs), 16 July 2014, available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_16_07_2014.pdf.

226. State of Palestine, October 2014, *op. cit.*

227. OCHA, 9 September 2014, *op. cit.*

seen their livelihoods – fishing boats, greenhouses and dairy production facilities – destroyed.²²⁸ Around 66 per cent of the population of Gaza was receiving food assistance prior to the crisis and the household food insecurity level, or vulnerability to food insecurity, stood at 72 per cent of households.

Unemployment has increased dramatically since mid-2013, following a halt in the illegal tunnel trade with Egypt, soaring from 28 per cent in the third quarter of 2013 to 45 per cent in the second quarter of 2014: almost 70 per cent of youths aged 20 to 24 were unemployed in Gaza in the second quarter of 2014. It is expected that labour market conditions in Gaza will further deteriorate following the conflict, exacerbating the impact of the blockade and the long-standing access restrictions imposed by Israel, which have been preventing any meaningful economic activity.²²⁹ While final figures are not yet available on the level of unemployment since Operation Protective Edge, the widespread devastation of the economic sector and the prolonged suspension of work indicate that the rate of unemployment has jumped significantly and will remain higher than the pre-assault rate for a prolonged period.²³⁰

Gaza's agricultural sector sustained over US\$500 million in damage, around twice the total under Operation Cast Lead, according to the Palestinian Ministry of Agriculture. Around 24,000 families of farmers, herders and fishermen suffered debilitating losses.²³¹

30 per cent of agricultural land was damaged. An estimated 40 percent of livestock died: half the poultry stock and hundreds of sheep and cows perished in the bombardment or from lack of feed and water, when owners could not access their farms.²³²

*FIDH field mission,
October 2014,
dead livestock,
Shiju'iyya.
© FIDH*

Abd al-Fatah Fiad, 38 years old, a married farmer with four children from al-Qararah, fled to Khan Yunis, abandoning the family home and livestock.

He lived 2.5-3 kilometers from the Israeli border, raising sheep and chickens.

This area is generally a farming area.

Abd gave his testimony by phone to 'Atef Abu a-Rub, B'Tselem's field researcher in Jenin, on 18 July 2014²³³:



228. OXFAM, 27 August 2014, *op. cit.*

229. OCHA, 4 September 2014, *op. cit.*

230. State of Palestine, October 2014, *op. cit.*

231. OCHA, 29 October 2014, *op. cit.*

232. State of Palestine, October 2014, *op. cit.*

233. B'Tselem, 18 July 2014, *op. cit.*

“On Thursday, 17 July 2014, I was at home with the family.[...]. After the afternoon prayer, al-Qararah came under attack. They attacked us from airplanes, tanks and helicopters. Some homes in the area were damaged. [...] my father’s house was hit and badly damaged. My house was also hit by shrapnel. Most of my brothers’ homes were hit too, some directly and some by shrapnel. The army also threw smoke grenades and everything filled with smoke. We stayed up all night. We were very worried. We waited until dawn to leave the house [...] We left behind 25 sheep, a mare, a foal, and chickens. We had nowhere safe to take them. [...] People from our area who came here after we did said the Israeli army took over roofs in the area, and that army bulldozers destroyed a lot of fields and uprooted trees. That’s a serious blow to people’s income around here. [...] This morning, my brother Muhammad tried to sneak into our neighborhood to check on the livestock and feed them. When he was about 800 meters from the house, soldiers in the neighborhood fired warning shots in his direction, so he turned around and came back.”

Muhammad, first refusing to follow orders to evacuate, eventually fled from Beit Layia on 13 July. He told FIDH during its October 2014 mission that:

“Israel fulfilled its threats from day one. It bombed empty fields and farmland. The missiles also landed in private gardens. One landed three days ago on my land, just 30 meters from our house. We have 4 dunams [0.4 hectares] of land with crops and fruit trees. In the last three days, they bombed us more than ten times with F-16 airplanes. Every missile left a hole in the ground about 10-12 meters deep. The crops were ruined and houses nearby were badly damaged.”²³⁴

The fishery sector was also greatly affected. Fishermen could not access the sea for the duration of the assault and many boats were destroyed. In the first month of the assault, nine percent of the annual catch was lost, impacting the already limited, protein-low Gaza diet.²³⁵

The killing of four children playing football on Gaza’s beach made headlines around the world. The children were from one of Gaza’s fishing families, which have struggled for years due to the blockade’s restrictions on livelihoods.

A few days before the tragedy, Oxfam spoke to Sabri Bakir, the boys’ uncle:

“I’ve been a fisherman forever. Fishing is the only thing I know in life and it’s been the sole source of income for me and my family. My new boat and nets were completely destroyed in the recent airstrikes. My old boat and nets were confiscated by the Israeli navy in 2012, so I had to borrow \$10,000 to buy new ones and I haven’t paid the loan yet.” “Before this military operation started, the situation was already very bad. Six miles is not enough at all to have fair quantities of fish. Three miles is like a bad joke. What would you get within three miles? Nothing. All of this restriction has had a great impact on our economic situation. Now my boat is gone I have nothing at all. I really do not know what I will do now, or how I will even provide food to my children.”²³⁶

234. B’Tselem, 20 July 2014, *op. cit.*

235. State of Palestine, October 2014, *op. cit.*

236. Oxfam, 27 August 2014, *op. cit.*



Gaza's weakened industrial firms suffered both direct and indirect losses as a result of the assault. In total, 990 industrial enterprises were impacted: 297 factories and workshops were destroyed and 693 were partially damaged. The construction industry suffered the biggest losses. Many industrial facilities had to suspend their production because of power and fuel shortages. Closure of facilities and suspension of production resulted in dismissal of workers because firms were unable to pay wages.²³⁷

*FIDH field mission,
October 2014,
port of Gaza.
© FIDH*

Ahmad, 35, used to work in Gaza's construction industry. When in 2007 the Israeli blockade was imposed on Gaza, materials kept coming through tunnels from Egypt, but when these closed down, tens of thousands of construction workers lost their jobs. Ahmad opened a shop in his neighborhood of Shuja'iyya in eastern Gaza, with which he supported his wife and sons. Shuja'iyya was heavily bombed and everything he owned was destroyed.

*"When the ground incursion started, my family and I fled the area and ended up sheltering in a school. After the ceasefire we went back to our home, but we found nothing left. Everything had vanished [...] Now I have no home, no shop, no job. I lost my dream and I can't afford to rebuild it."*²³⁸

Operation Protective Edge has been condemned for depriving the entire population of the Gaza Strip of the most basic means essential to their subsistence. However, Israel also draws direct economic benefit from this situation. One such benefit, as related by those who met with FIDH in Gaza, is the fact that the population is now wholly dependent on Israel for the provision of basic necessities and construction materials. Whilst this situation is not new, these latest hostilities have stripped the population of the minimal level of independence that it had managed to retain.

237. State of Palestine, October 2014, *op. cit.*

238. Oxfam, "Gaza: Food vouchers provide a lifeline for families who have lost everything", available at: <http://www.oxfam.org/en/crisis-gaza-occupied-palestinian-territory-and-israel/gaza-food-vouchers-provide-lifeline-families>



*FIDH field mission,
October 2014,
damages to brick
factories,
Shuja'iyya
© FIDH*

The deprivations suffered by the population of Gaza must be seen in light of the ongoing human rights violations being perpetrated by the state of Israel in this territory. The latest fighting comes on the heels of an extensive, seven year long blockade of Gaza by Israel, reinforced by Egypt at the Rafah border, which has had a disastrous impact on the health and well-being of the civilian population, depriving them of food, medicine, fuel and other essential supplies, and rendering them extremely vulnerable.²³⁹ Notable deleterious measures include²⁴⁰:

- The enforcement of the Access Restricted Area (ARA), which covers up to 35 per cent of Gaza's agricultural land, means that such land cannot be safely cultivated or can only be cultivated subject to restrictions. In the first half of 2014, four Palestinian civilians were killed and 87 injured by Israeli forces within the ARA, with people being shot at as far as 500 meters inside Gaza. Similarly, the live-fire enforcement of the fishing zone of the ARA (which covers up to 85 per cent of Gaza's fishing water), continues to put the lives of fishermen at risk; in the first half of 2014, 181 incidents of Israeli naval fire against fishermen were recorded, with eight fishermen injured. Land and sea access restrictions have had a devastating impact on livelihoods, the economy and, ultimately, on levels of poverty in Gaza.²⁴¹
- Over 50 percent of enterprises across the industrial, furniture, garment, textile, and agribusiness sectors were closed over recent years due to a combination of physical damage inflicted by conflicts and deteriorating market conditions caused by trade restrictions. Electricity has become the top binding constraint reported by Palestinian firms in Gaza, second only to political instability.²⁴²

239. HRW, 22 July 2014, *op. cit.*; Oxfam, 27 August 2014, *op. cit.*

240. Oxfam, 27 August 2014, *op. cit.*

241. *Ibid.*

242. State of Palestine, October 2014, *op. cit.*

- Items that Israel defines as “dual-use” – including construction materials and inputs essential for the agricultural sector – are expressly prohibited from entering Gaza. The competitiveness of export products is also limited, due to heightened transaction costs linked to Israeli restrictions. During the first half of 2014, less than one truckload of goods per day (on average) exited Gaza – less than two per cent of the pre-2007 average.

As a result of the limitations imposed by the Israeli blockade, the economy of Gaza has for years relied on tunnels connecting Gaza to Egypt.²⁴³ The almost complete closure of these tunnels since July 2013 by the Egyptian government has exacerbated the impact of longstanding Israeli restrictions. Unemployment in Gaza has increased dramatically without construction materials to drive the economy. The provision of basic services, such as electricity, water and sanitation, has been severely affected by the shortage of affordable fuel.

As long as this blockade remains in place, any economic initiatives will be unable to generate sustainable economic growth and development.²⁴⁴ The UN has pointed out the direct link between the blockade, the closing of tunnels and the escalation of violence, which led to the 2014 Gaza war:

*“[hostilities emerge] against a backdrop of a significant deterioration in the living conditions in the Gaza Strip since mid-2013, following the shutdown of the illegal tunnels with Egypt. This exacerbated an already fragile situation generated by the Israeli blockade, imposed since June 2007.”*²⁴⁵

It has further stated that:

*“Gaza already faced a challenging situation in regards to water and wastewater prior to the escalation. Water and wastewater services were further hampered during the war, due to aggravations of electricity and fuel shortages and the inaccessibility of many wells, pumping stations, and other facilities within the Israeli declared buffer zone.”*²⁴⁶

Despite improved access to these areas following the cessation of hostilities, services remain affected due to the damage sustained by some facilities, including the Gaza Power Plant.²⁴⁷ Approximately half a million people were directly affected by damage to water facilities, and one million people by damage to the wastewater plant and wastewater pumping stations.²⁴⁸

Israel’s control over significant aspects of life in Gaza gives it a legal obligation to ensure that the humanitarian needs of the people of Gaza are met and that they have access to adequate supplies of water and electricity, as well as other basic supplies. What has become apparent as a clear deprivation policy on the part of the Israeli State in respect of Gaza amounts to a serious violation of international law, including the destruction of infrastructure (e.g. electricity, water and sewage) as well as civilian property used for farming, fishing and industry. Attacks against these essential items for the survival of the civilian population constitute breaches of IHL, and

243. *Ibid.*

244. *Ibid.*

245. OCHA, Gaza Initial Rapid Assessment, 9 September 2014, available at: http://www.ochaopt.org/documents/gaza_mira_report_9september.pdf.

246. OCHA, 4 September 2014, *op. cit.*

247. *Ibid.*

248. OCHA, 9 September 2014, *op. cit.*

fall within the war crimes under Articles 8(2)(a) and 8(2)(b) of the Rome Statute, particularly in regards to directing attacks against civilians and civilian objects in a direct or indiscriminate manner, and the extensive and unjustified destruction of property. Further, as mentioned above, attacks on items necessary for the survival of the civilian population within the context of ongoing mass killings may contribute to the commission of extermination as a crime against humanity under Article 7(1)(b), and appear to have been conducted with discriminatory intent consistent with the crime of persecution under Article 7(1)(h).

V. Qualifications of crimes

The evidence in this report presents elements required for qualifying alleged acts committed in Gaza as a) crimes against humanity; and b) war crimes, pursuant to the Rome Statute, which codifies existing international criminal law, and provides the main lens for examining crimes in this report, without prejudice to violations of other treaty-based and customary international humanitarian law.²⁴⁹

• Crimes against humanity

Crimes against humanity may be committed during times of armed conflict or times of peace. The overarching principles that guide the qualification of an act as a crime against humanity are outlined in the introductory paragraph or chapeau of Article 7 of the Rome Statute: *“For the purpose of this Statute, ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against a civilian population, with knowledge of the attack.”* Furthermore, an attack must involve the *“multiple commission of acts”* and be carried out *“pursuant to or in furtherance of a State or organizational policy to commit such attack”*. The Statute then lists eleven criminal acts that, when meeting all of the conditions listed above, qualify as crimes against humanity.

The accounts presented herein indicate that the above criteria may have been met during Operation Protective Edge. Multiple attacks appear to have affected thousands of civilians in multiple locations over a duration of months. The attacks appear to pertain to a military policy, as they were committed by Israeli forces using sophisticated military weaponry accessible only within an organized command. These attacks were also accompanied by political statements, and as part of established military doctrine, further indicating the existence of a policy. If these facts are correct, the acts would be consistent with the possible commission of the following crimes against humanity:

- Art 7(1)(a) murder;
- Art 7(1)(b) extermination;
- Art 7(1)(d) deportation or forcible transfer of population; and
- Art 7(1)(h) persecution

The widespread killing of civilians (murder) has been amply documented throughout this report. The same can be said for the destruction of life-sustaining infrastructure, the denial of retrieve and rescue missions, bombing campaigns and preemptive warnings causing a massive flux of civilians to flee residences and neighbourhoods, the development of a policy and practice of issuing threats, and imposing harsh living conditions, fear, distress and humiliation on the entire population of Gaza. These acts fall within the elements of the definition of crime against humanity, including 7(1)(a), 7(1)(b) and 7(1)(d).

249. See, for example, Al Haq, “Divide and Conquer: Legal Analysis of Israel’s 2014 Military Offensive against the Gaza Strip”, February 2015, available at: <http://www.alhaq.org/advocacy/topics/gaza/898-divide-and-conquer-a-legal-analysis-of-israels-2014-offensive-against-the-gaza-strip>.

The crime of extermination is understood as killing of a collective nature, either directly or indirectly, including by “*the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population*”²⁵⁰. The directed destruction within a mere 50 days of infrastructure providing electricity, healthcare, water and sewage treatment, among others, within the context of documented mass killings, presents elements consistent with the crime of extermination.

The crime of deportation or forcible transfer of population is, according to the ICC’s Elements of Crimes, synonymous with the term “*forcibly displaced*”. Expulsion or other “*coercive acts*” are not restricted to the use of physical force, and may also be carried out through the threat of force or coercion, through the use of, *inter alia*, fear of violence and duress. The displacement of approximately 30 per cent of the population of the Gaza Strip during Operation Protective Edge through military offensives and the use of an unreliable, ineffective and inconsistent warning system is consistent with the implementation of such coercive acts.

The crime of persecution under Article 7(1)(h) adds a discriminatory element to other crimes against humanity, and must be linked to one or more of the other acts characterized as crimes under Article 7, based on “*political, racial, national, ethnic, cultural, religious, gender [...] or other grounds [...]*”. The evidence presented suggests that other crimes against humanity, such as murder, were not only committed against civilians, but rather civilians were targeted specifically for being Palestinians, as a form of collective punishment, which is impermissible under international law.

• War crimes

The conduct of hostilities within the international armed conflict between Palestine and Israel is regulated by both treaty-based and customary international humanitarian law (IHL). As indicated in the introduction to this report, international humanitarian law, applicable during times of armed conflict, hinges on the basic principles of distinction between civilians and combatants, proportionality of damage incurred vis a vis military advantage, and precaution in avoiding harm to civilians and civilian objects. Serious violations of IHL are considered war crimes.

As previously highlighted, the Rome Statute lays out numerous acts classified as war crimes, and states that it will privilege ICC jurisdiction over war crimes that are committed “*as part of a plan or policy or as part of a large-scale commission of such crimes*”. No additional chapeau exists delineating elements which must be applied to all acts, and certain acts against combatants and non-combatants may qualify as war crimes. War crimes committed in the context of an international armed conflict are specified in Article 8(2)(a) and 8(2)(b).

Accounts received by FIDH indicate the possible commission of numerous war crimes against civilians and civilian property, including against persons and objects granted special protection (e.g. civilians, civilian property, medical personnel, the sick and wounded, and hospitals).

Among the war crimes at issue are the following:

250. Article 7(1)(b) of the Rome Statute.

Article 8(2)(a) – Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

- (i) Wilful killing;
- (iv) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;

Article 8(2)(b) – Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:

- (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking part in hostilities;
- (ii) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
- (iv) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to the natural environment which would clearly be excessive in relation to the concrete and direct overall military advantage anticipated;
- (v) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives; and
- (ix) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- (xxiv) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law.

Evidence presented shows that Israel engaged in both indiscriminate attacks disproportionately affecting civilians and civilian objects as well as direct attacks against civilians and civilian objects, notably houses, schools and additional civilian infrastructure, all of which are war crimes under international humanitarian law and the aforementioned provisions of the Rome Statute. Evidence also suggests that Israel directly targeted ambulances, paramedics and healthcare facilities, killing or injuring emergency and healthcare workers and destroying medical property afforded special protection under international humanitarian law.

VI. Operation Protective Edge as part of ongoing political and military policies

Operation Protective Edge, which took place between 7 July and 26 August, and its impact, cannot be viewed in isolation from developments prior and subsequent to it. All operations that took place in Gaza in 2008-2009, 2012 and 2014, including the manner in which they have been conducted, exacerbated the effects of the blockade and result in long-term damage to the civilian population, and to their development and recovery prospects.

As such, the operations are consistent with a series of policies aimed at pursuing Israel's political objectives with regard to Gaza and the Occupied Palestinian Territory as a whole. The progressive isolation and separation of the Gaza Strip from the West Bank through the closures, the restrictions on movement and eventually the blockade, are among the most apparent.

Other measures adopted by Israel in the West Bank, including East Jerusalem, before, during and following the military operations in Gaza also further deepen Israel's control in the West Bank, and point to a convergence of objectives with the Gaza military operations. Such measures include increased expropriation, house demolitions, demolition orders and settlements expansion, more formalized movement restrictions on Palestinians, and new and stricter procedures for residents of the Gaza Strip to change their residency to the West Bank.²⁵¹ The cumulative impact of these policies and actions make prospects for any viable political situation impossible. Many such policies are based on or result in violations of international human rights and humanitarian law.

Further, Israel's military operations in Gaza in recent years, and in Lebanon in 2006, are characterized by certain consistent features; in particular, the destruction of buildings, including houses and other civilian property, has been recurrent. In 2009, the Report of the United Nations Fact-Finding Mission on the Gaza Conflict (known as the "Goldstone Report") mentioned the Israeli military's use in Gaza of a concept known as the Dahiya Doctrine, resulting from operations in southern Lebanon in 2006.²⁵²

Major General Gadi Eisenkot, the Israeli Northern Command Chief, expressed the premise of the doctrine:

251. Al Haq, "Divide and Conquer: Legal Analysis of Israel's 2014 Military Offensive against the Gaza Strip", February 2015, available at: <http://www.alhaq.org/advocacy/topics/gaza/898-divide-and-conquer-a-legal-analysis-of-israels-2014-offensive-against-the-gaza-strip>.

252. This does not exclude the implementation of other military policies and doctrines during Operation Protective Edge, such as the so-called Hannibal Directive. See more information in Al Haq's report "Divide and Conquer" (*ibid.*).

*“What happened in the Dahiya quarter of Beirut in 2006 will happen in every village from which Israel is fired on. [...] We will apply disproportionate force on it and cause great damage and destruction there. From our standpoint, these are not civilian villages, they are military bases. [...] This is not a recommendation. This is a plan. And it has been approved.”*²⁵³

It seems that Israel not only applied this policy in 2006 but has been developing it further through the different military operations in Gaza. The destruction and loss of life evidenced in the summer of 2014 is indeed consistent with such a policy.

253. UN Human Rights Council, *Report of the United Nations Fact-Finding Mission on the Gaza Conflict*, 25 September 2009, A/HRC/12/48, 254, available at: <http://www.refworld.org/docid/4ac1dd252.html>.

VII. Final conclusions

From the very launch of Operation Protective Edge by the Israeli government, FIDH firmly condemned what immediately and *prima facie* appeared as violations of international humanitarian and human rights law committed by the Israeli authorities and military, IDF.

It also condemned the indiscriminate firing of rockets and mortars by Palestinian armed forces which caused civilian deaths and injuries in Israel, as well as damage to civilian infrastructure and property.

Additionally, allegations of the use by Palestinian armed groups of civilian infrastructure for military purposes (such as hiding weapons in schools, cemeteries or places of worship), rockets fired from or in the vicinity of civilian facilities, the use of booby traps and human shields by Palestinian armed groups, should be further investigated and prosecuted.

However, actions taken by belligerent forces in the course of hostilities are not dependent on “reciprocity”. The fact that Palestinian armed groups may have breached international law does not constitute a *carte blanche* for Israeli forces with regard to their obligations under international law.

Moreover, the situation of the Palestinian people is the one of a people under occupation, and the Palestinian people of Gaza are also under siege. From this situation, which in itself tends to be forgotten by the international community, derive specific obligations and responsibility on the government and the military of Israel, which seems to have been totally ignored by the international community, much too easily disguised by the government of Israel under the alleged necessity of self-defense and furthermore window-dressed with IDF allegedly being the world champion of “moral behaviour”.

This report, which has documented Israeli attacks against civilians, medical personnel and infrastructure, shelters, and objects indispensable for civilian survival, highlights the following trends characterizing the conflict:

One of the main characteristics of the policy implemented by the Israeli military since the first days of Operation Protective Edge has been direct attacks on homes resulting in a high number of civilian dead and wounded. This policy has been applied on a widespread (from South to North Gaza strip) and daily basis, sometimes decimating entire families. The number of casualties has been without precedent. Attacks on hospitals, medical centers, shelters, markets, the widespread destruction of infrastructure, including that essential to the survival of the population, forced displacement, the obstruction of the humanitarian work, the razing of entire neighborhoods, and the massacre of Shiju’iya, Rafah and Khuza’a, evince the implementation of policy of granting “no quarter”.

Another characteristic of hostilities has been the issuance of threatening and arbitrary warnings. Phone calls, “knocks on the roof” and leaflets were issued as warnings throughout Gaza, forcing a quarter of the population to seek shelter. The widespread implementation of this warning policy forced people to relocate several times, and lack of – or misleading – information, together with attacks on civilians seeking shelter, created an environment of fear and despair amongst civilians. Analysis of Israel’s warnings highlights that civilians were unable to identify when, where and how to seek sanctuary from attacks. Assessment of how Israel’s warning policy was conceived and used, supports the contention that it was intended to serve purposes

other than civilian protection; namely, to instill terror and suffering among the civilian population as part of a collective punishment exercise and to cause massive forcible displacement.

Finally, this report documents how Israel has deprived the entire Palestinian population of its means of subsistence through damage and destruction wrought upon electricity and water infrastructure, as well as economic and agricultural assets. Such measures fall squarely within the category of international crimes. Moreover, attacks on goods and assets essential for the survival of the population and Gaza's economy exhibit a systematic character and were perpetrated by Israel in full knowledge, forming part of state policy before Operation Protective Edge and reinforced thereafter. This policy is evidenced in, amongst other measures, the blockade on the Gaza Strip, the extortionate prices imposed for supplies to the territory, and the cessation of the transfer of tax revenues to the Palestinian Authority. This policy, from which Israel draws direct economic advantage, adds to the humiliation and foments recourse to violence. It threatens international peace and security and constitutes both a grave and most flagrant violation of human rights law and the Rome Statute, including the potential commission of war crimes and crimes against humanity.

VIII. Recommendations

The recommendations hereunder aim to promote the rule of law, accountability, and the pursuit of justice. FIDH reiterates its support for the recommendations of the Goldstone and subsequent reports regarding all parties, in particular their obligations to proceed with independent, effective and genuine judicial investigations, prosecution and sanction of the most responsible of the gravest crimes, and reparations of victims.

Furthermore, FIDH believes that the following measures should be taken:

The international community of States should address as a matter of priority the cycle of impunity if the crimes committed in the Gaza strip, and notably:

Support the mandate of the Independent Commission of Inquiry on the 2014 Gaza conflict (thereafter “the Commission of Inquiry”), its interaction with all parties to the conflict and its deployment to the conflict zone, pay the utmost attention to and consideration of its findings of the Independent Commission of Inquiry on the 2014 Gaza conflict (thereafter “the Commission of Inquiry”) and deploy appropriate follow up to its final report, due to be presented to the United Nations Human Rights Council at its 29th regular session (15 June–3 July 2015), including on the:

- Establishment of the facts and consequences of violations of international humanitarian law and international human rights law in the Occupied Palestinian Territory, including East Jerusalem, particularly in the occupied Gaza Strip, that may amount to international crimes, as per operative paragraphs 2 and 13 of UN Human Rights Council resolution A/HRC/RES/S-21/1;
- Identification of those responsible for such violations and of the crimes perpetrated; and Accountability measures, all with a view to avoiding and ending impunity and ensuring that those responsible are held accountable, and on ways and means to protect civilians against any further assaults, as per operative paragraph 13 of UN Human Rights Council resolution A/HRC/RES/S-21/1.
- Welcome the opening by the Prosecutor of the International Criminal Court of a preliminary examination into the situation in Palestine and invite all relevant States to fully cooperate with the ICC Office of the Prosecutor;
- Refrain from putting political obstacles in the way of investigations undertaken by national judicial authorities into the crimes committed during the Operation Protective Edge, following complaints filed on the basis of universal jurisdiction, as long as no substantial effort is made by Israeli and Hamas authorities to hold those responsible accountable for the crimes committed.

In addition, while the international humanitarian and development intervention efforts in Gaza are still severely restricted by the Israeli government’s blockade of the Gaza Strip, as is reconstruction in the territory,

UN members States should:

- Urge Israel to lift the blockade on the Gaza Strip;
- Support both reconstruction and the population of Gaza and enforce Israel's financial accountability for all damages it has caused;

The UN Security Council should:

- Organize a hearing of the Commission of Inquiry, as soon as the latter has finalized preliminary findings, with a view to feeding its reflection and informing its action towards accountability, the fight against impunity, non-repetition and access to justice and redress for the victims, which are all prerequisites for, or essential components of, the fulfilment of its mandate to maintain international peace and security; and
- Endorse the recommendations of the Commission of Inquiry and cooperate with the ICC Office of the Prosecutor with a view to facilitating the work of the International Criminal Court.

The UN Human Rights Council should:

- Support the mandate of the Independent Commission of Inquiry on the 2014 Gaza conflict (thereafter "the Commission of Inquiry"), its interaction with all parties to the conflict and its deployment to the conflict zone, and as a matter of critical and urgent priority, urge Israel and Egypt to interact with the Commission of Inquiry and enable its access to the Gaza Strip to gather additional testimonies from victims and witnesses of violations of international humanitarian law and international human rights law committed in relation to the 2014 Gaza conflict, and consolidate its findings and recommendations;
- Pay the utmost attention to and consideration of the Commission of Inquiry final report, in particular recommendations made in relation to operative paragraph 13 of resolution A/HRC/RES/S-21/1, by adopting a resolution at its 29th regular session that focuses on ways and means of achieving accountability, non-repetition and access to justice and redress for the victims of international crimes; and
- Welcome the opening by the Prosecutor of the International Criminal Court of a preliminary examination into the situation in Palestine and invite all relevant States to fully cooperate with the ICC Office of the Prosecutor.

The Palestinian National Authority should, *inter alia*,

- Ensure a prompt and independent investigation into all allegations of serious human right violations and violations of international humanitarian law by security forces under its control
- Cooperate fully with the investigation mechanisms, including the UN Commission of Inquiry and the ICC/OTP.
- The Hamas must ensure that no armed group operating in the areas under its de facto control carries out rocket attacks against Israeli civilians or commits other violations of international and humanitarian law.

The Israeli Authorities should, *inter alia*,

- Put an end to the recurrent violations of international humanitarian and human rights law, including by lifting the blockade, and withdrawing unlawful retaliation measures;
- Conduct independent investigations on the crimes perpetrated during the Operation Protective Edge and prosecute all perpetrators, including all those responsible in the chain of command;
- Ratify the Rome statute and fully cooperate with international mechanisms, including the Commission of Inquiry and the ICC/OTP.
- Ensure the access to the territory of Gaza to NGOs, observers and investigation mechanisms.

The Egyptian authorities should, *inter alia*,

- Ensure the access to the territory of Gaza to NGOs, observers and investigation mechanisms.

The Commission of Inquiry should, *inter alia*,

- Pursue its efforts to: (a) gain access to the Occupied Palestinian Territory, particularly the Gaza Strip to conduct investigations and complete its collection of victims' and witnesses' testimonies with a view to finalizing its report, (b) establish the facts and consequences of violations and crimes committed, identify those responsible, as well as accountability measures, (c) cooperate, as appropriate, with other relevant United Nations bodies;
- Release its final report in advance of, and present it at, the 29th regular session of the UN Human Rights Council;
- Stand ready to be heard by the UN Security Council with a view to feeding its reflection and informing its action towards accountability, the fight against impunity, non-repetition and access to justice and redress for the victims; and
- Fully cooperate with the ICC Office of the Prosecutor.

The International Criminal Court should, as required:

- The Office of the Prosecutor should open an investigation into the alleged crimes against humanity and war crimes under its jurisdiction committed in Palestine.
- The Registrar should engage in outreach and public information efforts in Palestine and Israel to promote understanding of the International Criminal Court and to reach out to and engage with victims of alleged crimes.



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inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest, detention or exile. Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 11: (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty

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