



THE 2014 OPERATION “PROTECTIVE EDGE” VIOLATING THE LAWS OF WAR



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1. INTRODUCTION

This report is based on a submission to the United Nations (UN) Independent Commission of Inquiry on the 2014 Gaza Conflict.

Established by the Human Rights Council on 23 July, the Commission of Inquiry has the mandate to investigate all violations of International Humanitarian Law and International Human Rights Law in the Occupied Palestinian Territories (OPT), including East Jerusalem, particularly in the occupied Gaza Strip, in the context of the military operations conducted since 13 June 2014, and to report to the Council at its twenty-eighth session in March 2015.

This report includes testimonies and documentation of the violations of International Humanitarian Law and International Human Rights Law by the Israeli Defence Force (IDF) during Operation “Protective Edge”, conducted between 8 July and 26 August 2014.

Between October and December 2014, the Alkarama Foundation’s research team in the Gaza Strip gathered testimonies from survivors and witnesses on 62 different assaults conducted during the period of the operation. These assaults resulted in the destruction of several civilian objects, death of 280 victims and the injury of several others.



2. BACKGROUND

Operation “Protective Edge” (Miv’tsa Tzuk Eitan in Hebrew) is an Israeli military operation launched on 8 July 2014 on the Gaza Strip. The fifty-one-day operation entailed intensive bombardments, rocket mortar fire and a ground operation across the Strip¹. Rockets were also fired from Gaza towards Israeli cities and towns. The operation concluded on 26 August 2014, when the parties reached an open-ended cease-fire.

The operation was the longest military operation launched on the Gaza Strip since Israel’s withdrawal in 2005. It resulted in a record number of civilian casualties, devastation of civilian buildings and infrastructure and a large scale of displacement. Statistics by the UN show that 2192² people were killed, and 11,748³ were injured.

Approximately 69% of the victims were civilians of whom 34% were children and 17.5% were women. In addition, approximately 20,000 homes, 220 schools, 62 hospitals and clinics were destroyed or severely damaged leaving approximately 108,000 people homeless.

At the height of the conflict, approximately 485,000 people were internally displaced. Five Israeli citizens and one foreign national were killed during the operation.

1 http://www.ochaopt.org/documents/gaza_humanitarian_dashboard_september2014.pdf (accessed on 29 January 2015).

2 http://www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_report_2014_10_24_english.pdf (accessed on 29 January 2015).

3 http://www.unochaopt.org/documents/ocha_opt_sitrep_04_09_2014.pdf (accessed on 29 January 2015).

The facts and cases documented in the present report will be assessed in light of International Humanitarian Law (hereinafter IHL) as well as International Human Rights Law (hereinafter IHRL). We believe that both branches of law are applicable to the situation under consideration, as well as the Commission of Inquiry's benchmark for its legal assessment.

We call IHL the branch of law that applies to the situations of armed conflicts of international and non-international nature, embedded in norms of customary nature, the Hague Regulations, the four Geneva Conventions (hereinafter GC) and the two Additional Protocols to the Geneva Conventions (hereinafter API and APII). As a party to the Hague Regulations and the GCs, Israel is bound to apply these norms as well as the norms of customary nature. Israel is not a party to the APs to the Geneva Conventions, however, as there is a general agreement that the norms contained in API relating to the conduct of hostilities are of customary nature, Israel is bound to respect these norms as well.

According to article 2 common to the GCs, the GCs apply to conflicts of an international character, namely to conflicts that oppose two States as well as to situations of occupation. Article 42 of the Hague Regulations, regarded as customary international law, prescribes that a "territory is considered occupied when it is actually placed under the authority of the hostile army". However, the GCIV relative to the protection of civilian persons in times of war has the purpose to extend the protection of civilians regardless of the situation of actual occupation. As emerges from State practice, the protection of persons as intended in the GCs starts when they actually fall under the power of the enemy and do not need the actual authority and control of the territory.

During the Operation "Protective Edge", Israel has always exercised effective control over the Gaza Strip, so that the Gaza Strip is to be considered as occupied territory at all times, and not only after the ground invasion that started on 18 July 2014. Indeed, even if Israel had declared a withdrawal from the Gaza strip in 2005, the Gaza Strip territories had remained occupied due to the power the Israeli authorities could effectively exercise over this territory, being able for example to control the entry of persons and goods through the checkpoints under their jurisdiction.

Therefore, during all the Operation, the law of occupation continued to be applicable, and remains applicable to date, as no changes had occurred regarding the level of control Israel still exercises over the life of Palestinians residing there. The relevant law applicable during the Operation is then the law of international armed conflicts, namely the GCs and customary international law, and especially the law of occupation. The Hague Regulations apply as well with the launch of the ground offensive on 18 July 2014. The law of the conduct of hostilities, as enshrined in API and reflecting customary international law, applies to the military operations carried out.

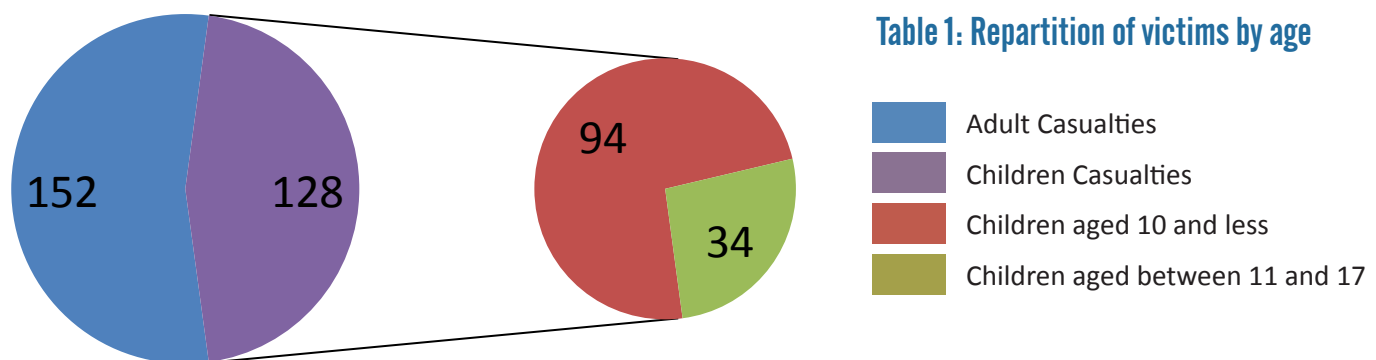
International jurisprudence has also considered that IHRL does not cease to apply in situations of armed conflicts, as recognised by the Nuclear Weapons Advisory Opinion and especially by the Advisory Opinion of the International Court of Justice (ICJ) on the Consequences of the Construction of a Wall, which also acknowledges the extraterritorial application of human rights treaties during times of armed conflicts. Therefore, the IHRL treaties ratified by Israel, such as the International Covenant on Civil and Political Rights (ICCPR), also apply to the hostilities conducted in the Gaza strip during the entire period of the Operation.

4. DOCUMENTATION OF CIVILIAN DEATHS

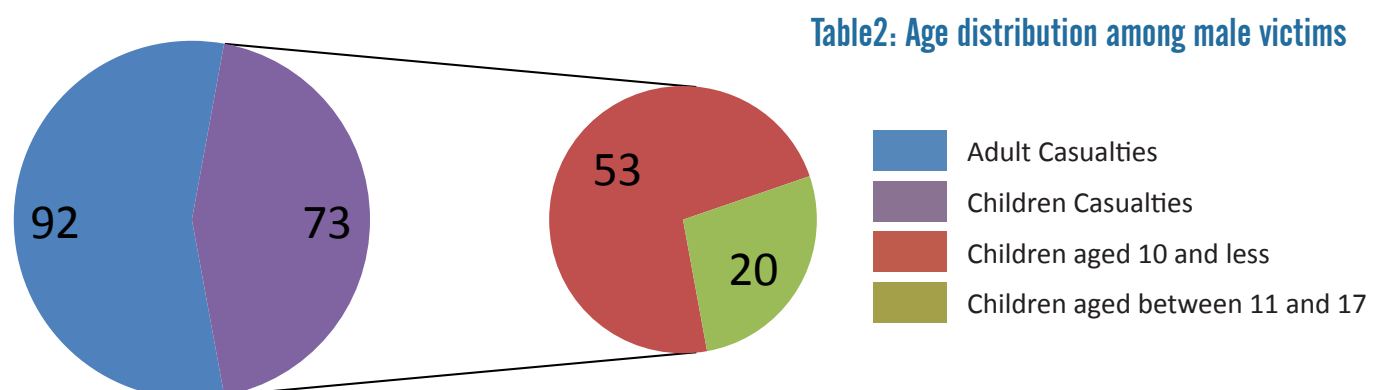
4.1 OVERALL DESCRIPTION OF THE CASES DOCUMENTED

Alkarama research team in the Gaza Strip gathered information on 62 different assaults conducted over the duration of the Operation. These assaults resulted in the destruction of numerous civilian objects, as well as deaths and injuries of civilian persons. Among civilian casualties, our team was able to fully document 280 deaths among which 128 victims (46%) are children, i.e. aged less than 18. We also distinguished between children aged 10 and less and children aged 11 to 17 to highlight the high proportion of deaths of children under 10 (see table 1).

Among the 128 children, 94 are aged 10 or less (i.e. 73 % of the total number of children) and 34 are aged between 11 and 17 (i.e. 27 % of the total number of children). We also note that the average age of children casualties is 7, similar to the median age. The average age of victims from the entire sample is 22 while the median age is 19. These figures clearly show the extremely low age of the majority of victims .



On the overall sample, children and adults, we found that 115 victims are female (41 %) and 165 victims are male (59 %). It is worth noting nevertheless that among the 165 male victims, 73 are children (44 % of male victims); and among those male children, 53 are aged 10 and less (73 % of male children – see table 2).

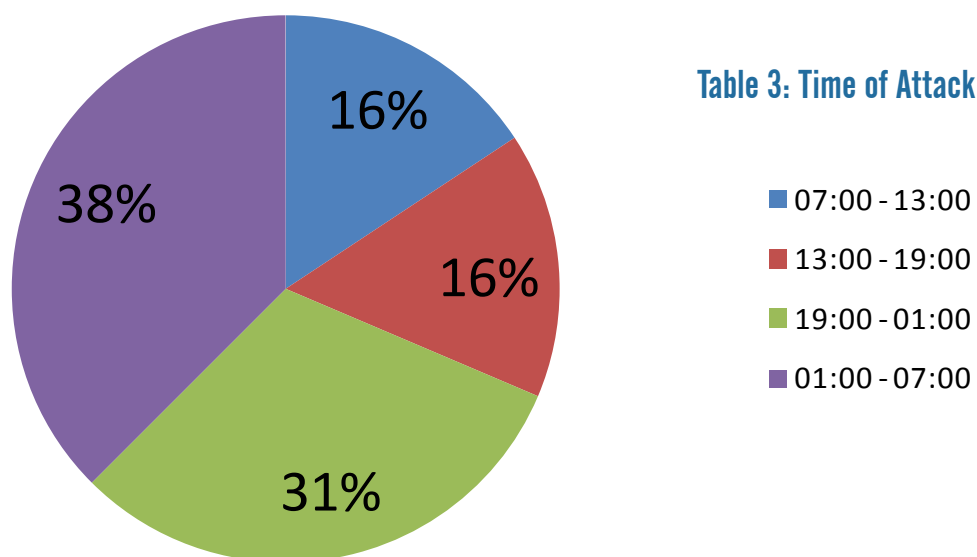


Among the adult victims, 95 were married (63 % of adult casualties). According to the Palestinian Bureau of Statistics⁴ records from 2012, average family size in the Gaza Strip is 6.1 members. The large number of married adults killed thus reflects the large scale of orphans generated by this operation and the subsequent suffering inflicted to the Palestinian population, particularly children in the Gaza Strip. According to the UN, at least 142 Palestinian families lost three or more members in a single attack, amounting to a total of 739 fatalities, and up to 1500 children were orphaned and will need sustained support from the child protection and welfare sectors⁵.

The cases documented can be considered as reflecting the statistics for the entire casualties that resulted from the operation, since cases were chosen randomly and depending on the accessibility of victims and their families to our research team. We thus argue that the over-representation of children and women in the casualties does reflect a pattern applicable to the whole and not only to the part of the victims whose death we were able to document. We will draw the legal consequences of such an over-representation in our conclusion.

We can further see (Table 3) that 38% of the assaults occurred between 1:00 – 7:00 in the morning while the population was asleep. In such circumstances, the probability of harming civilians and causing casualties is much higher than during daytime where the population is more alert and able to react quickly.

We also concluded that 69% of the attacks documented in our research occurred between 19:00-7:00, i.e. when most of the civilian population is expected to be at home.



Finally, 94% of the civilians victims were attacked without any prior warning. Only in four of the attacks surveyed the population received a warning. Nevertheless, two of these warnings were issued for attacks which happened in the early morning hours at 1:00 and 4:30 respectively, while two were issued for attacks that occurred at 16:00 and 19:15.

The average warning time in three of the attacks was 15 minutes (20 minutes, 20 minutes and 5 minutes).

4 http://www.pcbs.gov.ps/portals/_pcbs/PressRelease/Press_En_PalestiniansEOY2012E.pdf (accessed on 29 January 2015).

5 http://www.ochaopt.org/documents/ocha_opt_sitrep_04_09_2014.pdf (accessed on 29 January 2015).

4.2 CIVILIAN DEATHS RESULTING FROM ATTACKS ON CIVILIAN RESIDENTIAL BUILDINGS AND NEIGHBOURHOODS

The following section provides documentation of 35 attacks on civilian buildings or neighbourhoods that resulted in the death of civilians, often members of the same families, followed by a legal analysis, which demonstrates that they constitute serious violations of IHL.

4.2.1 Documentation of cases

4.2.1.1 *Hamad Family (08.07.2014) [1]*

On Tuesday 8 July 2014 at 23:30, a missile was fired without any prior warning towards the Hamad family house while they were sitting in their yard, in Hamad Street, Beit Hanoun, killing six people and injuring six others.

The missile, which was fired from a reconnaissance aircraft (drone), killed 67-year-old Rasmiyi Khalil Mahmoud Hamad, her sons, 40-year-old Mahdi Muhamad Ahmad Hamad, 37-year-old Hafith Muhamad Ahmad Hamad, 35-year-old Ibrahim Muhamad Ahmad Hamad, Rasmiyi Khalil Mahmoud Hamad's grandchild, 21-year-old Dina Mahdi Muhamad Hamad and their relative, 31-year-old Suha Hamad Ahmad Hamad.

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the bodies of family members, decapitating and severing limbs.

4.2.1.2 *Qandil and Abu-Swilim Families (12.07.2014) [2]*

On Sunday 12 July 2014 at 23:40, a missile fired by a reconnaissance aircraft (drone) hit a group of people sitting in a house's yard located in Jabalia Camp, Block 9, next to the Anwar Aziz Mosque. Five people were killed and two others were injured in this attack, which, came without any prior warning and directly targeted the group. Among those who were killed were 38-year-old Yousuf Ahmad Abdulkadir Qandil, his 17-year-old son Ans Yousuf Ahmad Qandil and 20-year-old Muhamad Idris Abd Alhamid Abu-Swilim.

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the bodies of the deceased.

4.2.1.3 *Abdullah Ali Abd Antiz (17.07.2014) [3]*

On Thursday 17 July 2014 at 8:40, a number of artillery shells were launched towards the Alshijaiya Alsha'af neighbourhood killing three people and injuring three others. The attack, which came without any warning hit three homes in the area, killing, among others, 23-year-old Abdullah Ali Abd Antiz.

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the body of Abdullah Ali Abd Antiz.

4.2.1.4 *Muhamad Awad Matar Matar (18.07.2014) [4]*

On Friday 18 July 2014 at 16:00, a missile was fired by a reconnaissance aircraft (drone) and killed 38-year-old Muhamad Awad Matar Matar instantly. Majidah Awad Matar Matar, the victim's sister, affirmed he was suffering from a mental health condition, and had no recollection or awareness of the danger around him. He was on his way to visit his brother's grave at Beit Lahia graveyard when he was killed.

The report issued by the Palestinian Authority Ministry of Health states that the victim's body was torn to shreds by the missile.

4.2.1.5 *Abu-Jarad Family (18.07.2014) [5]*

On Friday 18 July 2014 at 21:05, two Hellfire missiles were fired from an Apache helicopter toward the Abdulrahman Abu-Jarad family house in Hamad Street, Al-Izbi, Beit Hanoun, injuring ten people and killing eight others, among which five were children and one woman. The assault, which occurred without any warning, killed 32-year-old Abdulrahman Mousa Khalil Abu-Jarad, 23-year-old Naim Mousa Khalil Abu-Jarad, 18-month-old Samih Naim Mousa Abu-Jarad, 17-year-old Ahlam Mousa Khalil Abu-Jarad, 4-year-old Samar Mousa Khalil Abu-Jarad, 3-year-old Haniya Abdulrahman Mousa Abu-Jarad, 11-month-old Mousa Abdulrahman Mousa Abu-Jarad and 31-year-old Raja'a Illayan Khalil Abu-Jarad.

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the bodies of family members, severing limbs.

4.2.1.6 *Hamoudah Family (19.07.2014) [6]*

On Saturday 19 July 2014 at 10:30, missiles were fired by a reconnaissance aircraft (drone) and killed a group of young people gathered next to their home, which was located in Beit Lahia's Western Square. The attack, which came without any warning, also hit the areas nearby the house. It resulted in the killing of seven people and injured 25 others. Among those killed were 10-year-old Umar Jamil Subhi Hamoudah, his brother 15-year-old Yousuf Jamil Subhi Hamoudah and their relative 18-year-old Muhamad Rizik Muhamad Husain Hamoudah. ***"They were just children"***, stated Jamil Subhi Husain Hamoudah, father of two of the victims.

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the bodies of the victims.

4.2.1.7 *Muhamad Attallah Oudah Sa'dat (19.07.2014) [7]*

On Saturday, 19 July 2014 at 10:30, artillery shells hit the Sa'dat family house in Beit Hanoun, Al-Sikah Street, killing one person and injuring five others from the same family. The attack was carried without providing any previous warning, killing 26-year-old Muhamad Attallah Oudah Sa'dat instantly.

Yousuf Attallah Audah Sa'dat, the victim's brother who survived the attack stated that, ***"due to the intensity of shelling near our home we decided to move to our uncle's house. There we were targeted by an artillery shell which killed my brother"***.

4.2.1.8 *Al-Zouaidi Family (19.07.2014) [8]*

On Saturday 19 July 2014 at 11:00, the Al-Zouadi house located on Bassel Na'eem Street in Beit Hanoun was targeted by artillery shells, without any warning.

The victims were: 2-year-old Nagham Mahmoud Abdelhamid Al-Zouaidi, 37-year-old Daliya Abdelhamid Hussein Al-Zouaidi, 6-year-old Roya Mahmoud Abdelhamid, 26-year-old Mahmoud Abdelhamid Hussein Al-Zouaidi and 19-year-old Mohammed Khalid Jameel Al-Zouaidi. The husband of Daliya Abdelhamid Hussein who witnessed the attack stated that:

"I was at home, my relatives were in the living room and I was in the bedroom. I heard a noise of explosion: when I entered the living room I saw five of my relatives dead. My son, who was with me, was severely injured, but survived."

4.2.1.9 *Al-Hilo Family (20.07.2014) [9]*

In the early hours of Sunday 20 July 2014 at 3:00, two F16 missiles were fired towards the Al-Hilo family house in Alshijaiy, Alnazaz neighbourhood, killing eleven people, including four children, four women

and two men. The assault, which came without any warning, destroyed the house and killed 56-year-old Siham Ata Sleem Al-Hilo, 58-year-old Jihad Mahmoud Hamid Al-Hilo and his five children: 29-year-old Muhamad Jihad Mahmoud Al-Hilo, 26-year-old Ahmad Jihad Mahmoud Al-Hilo, 20-year-old Tahrir Jihad Mahmoud Al-Hilo, 24-year-old Asma'a Jihad Mahmoud Al-Hilo and 15-year-old Najieh Jihad Mahmoud Al-Hilo. His three grandchildren were also killed: 2-year-old Maram Ahmad Jihad Al-Hilo, 6-month-old twins Abdulkarim Ahmad Jihad Al-Hilo and Karam Ahmad Jihad Al-Hilo, in addition to their relative, 24-year-old Hidayat Talal Mahmoud Al-Hilo. The Al-Hilo family was not given any warning prior to the assault.

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the bodies of the victims. Some of the deceased suffered third degree burns while other victims' bodies were in pieces and unrecognisable.

4.2.1.10 *Abu-Jami'e Family (20.07.2014) [10]*

On Sunday 20 July 2014 at 19:30, two F16 missiles hit the Abu-Jami'e family house located in Khan Younis, Bani Suhaila, Abu-Saqir Street. 25 people were killed, the majority of whom were women and children, and three others were injured. The assault came without any warning while the family members were having their Ramadan "Iftar" meal, and led to the destruction of the three-storey building.

Among those who were killed were 64-year-old Fatimah Mahmoud Ahmad Abu-Jami'e, 10-year-old Ayah Tawfiq Muhamad Abu-Jami'e, 14-year-old Razan Tawfiq Muhamad Abu-Jami'e, 13-year-old Jawdat Tawfiq Muhamad Abu-Jami'e, 7-year-old Ahmad Tawfiq Muhamad Abu-Jami'e, 5-year-old Tawfiq Tawfiq Muhamad Abu-Jami'e, 9-year-old Hayfa Tawfiq Muhamad Abu-Jami'e, 27-year-old Yasir Ahmad Muhamad Abu-Jami'e, 5-year-old Sajid Yasir Ahmad Abu-Jami'e, 4-year-old Siraj Yasir Ahmad Abu-Jami'e, 2-year-old Sira'a

Yasir Ahmad Abu-Jami'e, 3-year-old Batoul Basam Ahmad Abu-Jami'e, 1-year-old Bisan Basam Ahmad Abu-Jami'e, 2-year-old Suhaila Basam Ahmad Abu-Jami'e, 2-year-old Rinad Taysir Ahmad Abu-Jami'e, 6-month-old Nujoud Taysir Ahmad Abu-Jami'e, 7-year-old Fatimah Taysir Ahmad Abu-Jami'e, 6-year-old Ayoub Taysir Ahmad Abu-Jami'e, 5-year-old Rayan Taysir Ahmad Abu-Jami'e, 25-year-old Yasmin Ahmad Salameh Abu-Jami'e, 29-year-old Shahinaz Walid Muhamad Abu-Jami'e, 39-year-old Sabah Tawfiq Muhamad Abu-Jami'e and 6-year-old Husam Husam Muhamad Abu-Qaynas.

Tawfiq Ahmad Muhamad Abu-Jami'e, who survived the attack, described the assault:

"Suddenly, without any warning, during the month of Ramadan, while breaking the fast, the house was destroyed over our heads. I woke up in a hospital, [...] that was where I found out that my entire family got killed".

The Abu-Jami'e family was not given any warning prior to the assault. The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the bodies of those killed.

Tawfiq Abu Jami'e, who lost his wife and six of his children, with his only surviving child Nur a-Din. Photo: Khaled al-'Azayzeh, B'Tselem, 16 September 2014.



4.2.1.11 *Syam Family (21.07.2014) [11]*

On Monday 21 July 2014 at 6:00, the Syam family's house was directly targeted by a missile from a reconnaissance aircraft (drone) while they were evacuating their house, which had been hit earlier by a missile killing twelve people, many of whom were women and children and injuring eight others. The family members were in Rafah, Alsyamat neighbourhood, Uthman Bin Afan Street, when they were targeted for the second time, without any prior warning. Among those killed were 42-year-old Sa'idah Hasan Hamad Syam, 31-year-old Kamal Mahrous Salam Syam, 30-year-old Shirin Muhamad Salam Syam, 25-year-old Sumoud Nasir Mustafa Syam, 24-year-old Muhamad Mahrous Salam Syam, 17-year-old Amin Ayman Mahrous Syam, 14-year-old Ahmad Ayman Mahrous Syam, 9-year-old Mustafa Nabil Mahrous Syam, 3-year-old Muien Muhamad Mahrous Syam and 11-month-old Dalal Nabil Mahrous Syam.

Nabil Mahrous Salam Syam, the victims' father who survived the attack, describes the incident as follows:

"[...] we were targeted while evacuating our house towards the street, [...] I saw black smoke, one of my children was lying on the floor, I looked at my arms and saw they were severed [...], I saw my family, my brothers all lying on the street, their bodies were torn to shreds."

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the bodies of the victims.

4.2.1.12 *Al-Bdi Family (22.07.2014) [12]*

On Tuesday 22 July 2014 at 16:30, a missile was fired without any warning towards the Al-Bdi family while they were walking in the street, killing three people, two of whom were children and injuring another family member. The family was walking the short distance from their home in Beit Lahia, Al Manshia street, towards their relatives's house located in Alhatabiya Street, when they were targeted by a missile from a reconnaissance aircraft (drone) killing the father, 27-year-old Ahmad Asa'd Rashad Al-Bdi and his son 3-month-old Muhamad Ahmad Asa'd Al-Bdi. Another child, 8-year-old Shahd Mu'ien Ali Qishta was also killed by shrapnel to the neck while at her family house, near the blast.

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the bodies of the victims.

4.2.1.13 *Al Radiea Brothers (23.07.2014) [13]*

On Wednesday 23 July 2014 at 16:30, an Israeli reconnaissance aircraft (drone) fired a missile towards three young people sitting outside their house in Beit Lahia, Alhatabiya Street, killing them instantly. The assault, which came without any warning, killed 19-year-old Ra'id Salim Rajab Al-Radiea, his sister 2-year-old Salma Salim Rajab Al-Radiea and their cousin.

The report issued by the Palestinian Authority Ministry of health states that the cause of death was a result of extensive shrapnel wounds covering the bodies of the deceased.

4.2.1.14 *Abu-Amsha Couple (26.07.2014) [14]*

On Tuesday 2 July 2014 at 1:00, a missile fired from a reconnaissance aircraft (drone) hit the house of the Abu-Amsha family in Beit Hanoun, Al Bali Street, killing two people. The assault, which occurred without any prior warning, killed 68-year-old Fawzi Ahmad Ahmad Abu-Amsha and his wife, 57-year-old Nimah Muhamad Hasan Abu-Amsha.

Akram Fawzi Ahmad Abu-Amsha, the victims' son, describing the aftermath stated that:

“the day they agreed to the ceasefire I rushed to visit them, [...] I was shocked to see they had been killed while sitting in their yard.”

The report issued by the Palestinian Authority Ministry of Health states that the bodies of the victims were torn to shreds by the blast.

4.2.1.15 ***Al-Najjar, Al-Regeb and Abu Shahla families (26.07.2014) [15]***

On Saturday 26 July 2014 at 03:00, a family house located in Bani Suheila, Khan Younis, was targeted by a missile fired from a military aircraft, destroying the house entirely and killing members of the Al-Najjar, Al-Regeb and Abu Shahla families living in it.

The victims were 25-year-old Reeham Al-Najjar, 1-year-old Sameer Al-Najjar, 18-year-old Majed Al-Najjar, 56-year-old Ghaliya Al-Najjar, 5-year-old Moataz Al-Najjar, 19-year-old Sumaya Al-Najjar, 22-year-old Kefah Al-Najjar, 7-year-old Hani Al-Najjar, 13-year-old Ahmad Al-Najjar, 1-year-old Ghaliya Al-Najjar, 19-year-old Khalil Al-Najjar, 16-year-old Rawan Al-Najjar, 52-year-old Sameer Al-Najjar, 4-year-old Islam Al-Najjar, 23-year-old Imane Al-Najjar, 11-year-old Barra Al-Regeb, 2-year-old Ameer Abu Shahla, 30-year-old Ekhlal Abu Shahla and 1-year-old Ameera Abu Shahla.

4.2.1.16 ***Nasir and Shabat Family (26.07.2014) [16]***

On Saturday 26 July 2014 at 5:15, three F16 missiles hit a house belonging to Jamal Shabat, Beit Hanoun, Khalil Alwazir Street, killing eight young men and injuring one other. The assault, which occurred without any warning, destroyed the three-storey building, killing 34-year-old Munther Talal Abdulkarim Nasir and his brother, 25-year-old Tamir Talal Abdulkarim Nasir. Their relatives, 25-year-old Ala'a Abdulrahman Muhamad Nasir, 22-year-old Ihab Sadi Muhamad Nasir, 21-year-old Hadi Ismail Abdulrahman and 19-year-old Tahir Ismail Abdulrahman were also killed. In addition, 29-year-old Yihia Jamal Mousa Shabat, the houses owner's son, lost his life.

Yousuf Jamal Shabat, who survived the attack, stated: ***“The house was hit as I was asleep; [...] I woke up in the hospital.”***

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of broken bones and extensive shrapnel wounds covering the bodies of the deceased.

4.2.1.17 ***Wahdan Family (26.07.2014 and 03.08.2014) [17]***

On Tuesday 26 July 2014 at 7:00, the Wahdan family house, located in Beit Hanoun, Al-Boura, was blown up by explosives, killing eight people and injuring several others. It is worth noting that earlier that week, the house had been stormed by an Israeli Commando Unit who took family members as hostages and used the house as a base for their operations. The house was blown up, without any warning, the day the forces left.

Those who survived the explosion took shelter in a house that belongs to the Abu-Al-Qumsan family, next to Al-Khulafa'a Al-Rashideen Mosque, in Jabalia refugee camp. However, on 3 August 2014 at midnight, the Abu-Al-Qumsan family house was also targeted. A missile from a reconnaissance aircraft (drone) was fired without any warning towards the house, killing four people and injuring several others. In both attacks, a total of 12 people from the Wahdan family lost their lives, ten of which were women and children, and 20 others were injured. Those killed were 69-year-old Zaki Adulrahman Muhamad Wahdan, 67-year-old Suad Ismail Muhamad Wahdan, 50-year-old Bagdad Ahmad Husain Wahdan, 52-year-old Hatim Zaki Abdulrahman Wahdan, 9-year-old Husain Hatim Zaki Wahdan, 9-year-old Zaynab Hatim Zaki Wahdan, 6-month-old Ahmad Hatim Zaki Wahdan, 3-year-old Noralhuda Bahjat Hatim Ghazi Wahdan, 2-year-old Ghina Younis Bashir Saqr, 22-year-old Sumoud Hatim Zaki Wahdan, 21-year-old Sanyora Diab Abdulkarim

Wahdan and 27-year-old Jamilah Jamal Mahmoud Wahdan.

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the bodies of the family members.

4.2.1.18 *Dheer Family (29.07.2014) [18]*

On Tuesday 29 July 2014 at 4:30, two F16 missiles hit the Dheer family house located in Rafah, Misbieh area, Alzuhoor neighbourhood, killing 18 people, 15 of whom were women and children, and injuring three others.

Ali Salameh Mahmoud Dheer, who survived the attack, confirms that in this particular incident his family did receive a warning. A reconnaissance aircraft (drone) fired a warning shot towards the house. However, he added that at the time of the attack they were all sleeping and did not understand that what they heard was a warning for them to leave the house.

The blast subsequently destroyed the house and caused severe damage to homes and areas nearby, killing 66-year-old Turkiya Khalil Hamid Dheer, 46-year-old Mahmoud Salameh Mahmoud Dheer, and five of his children, 20-year-old Shurouk Mahmoud Salameh Dheer, 16-year-old Arwa Mahmoud Salameh Dheer, 19-year-old Ula Mahmoud Salameh Dheer, 12-year-old Salameh Mahmoud Salameh Dheer, and 7-year-old Muhamad Mahmoud Salameh Dheer. 37-year-old Umar Salameh Mahmoud Dheer and five of his children, 10-year-old Muhamad Umar Salameh Dheer, 5-year-old Yamin Umar Salameh Dheer, 11-year-old Maria Umar Salameh Dheer, 9-year-old Mou'min Umar Salameh Dheer, and 7-year-old Gayda'a Umar Salameh were killed. In addition, their relatives, 40-year-old Jamalata Mahmoud Muhamad Dheer, 29-year-old Wafa'a Abdulraziq Eid Dheer, 24-year-old Yasmin Ahmad Hammad Dheer, 23-year-old Izat Salameh Mahmoud Dheer and 3-year-old Tasnim Muhamad Salameh Dheer were also killed.

Muhamad Abdulhakim Awad Zurub who witnessed the attack stated that:

"the explosion woke me up [...]. I saw unprecedented destruction; I saw bodies under the rubble, some of them were thrown to the street by the powerful blast".

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the bodies.

4.2.1.19 *Balatah Family (29.07.14) [19]*

On Friday 29 July 2014 at 15:45, around 14 artillery shells and an additional three missiles fired by a reconnaissance aircraft (drone) were launched towards Jabalia Camp, Block 1, next to the Aisha Mosque, killing eleven people, the majority of whom were women and children (10) and injuring one other. The Balatah Family was at the Abdulkarim Balatah's family house when, without any warning, the house was targeted, killing 45-year-old Naim Nathmi Muhamad Balatah, his wife, 39-year-old Sahar



The ruins of the Balatah Family Home.

Photo: Muhammd Sabah, B'Tselem, 17 August 2014

Mtawi'e Muhammad Balatah, and their children, 24-year-old Marian Naim Nathmi Balatah, 22-year-old Dua'a Naim Nathmi Balatah, 21-year-old Wafa Naim Nathmi Balatah, 19-year-old Hana' Naim Nathmi Balatah, 14-year-old Ala'a Naim Nathmi Balatah, 13-year-old Isra'a Naim Nathmi Balatah and 8-year-old Yihia Naim Nathmi. Their relatives, 17-year-old Hadil Abdulkarim Nathmi Balatah and 1-year-old Abdulkarim Nathmi Abdulkarim Balatah were also killed.

Abdulkarim Nathmi Muhamad Balatah, who survived the attack, describes it as follows:

"we were at home when suddenly we heard the sound of two explosions, [...] we could see a thick black smoke 30 meters from our house, when suddenly shells and missiles were falling everywhere, [...] I rushed to the street, then our house was targeted, I miraculously managed to escape."

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of broken bones and extensive shrapnel wounds covering the bodies of the deceased.

4.2.1.20 *Abd Rabbo Family (29.07.2014) [20]*

On Tuesday 29 July 2014 at 22:00, artillery shells were fired towards hit the Abd Rabbo family house, located on Assaliya Street in Jabaliya, near the Omari Mosque. The attack, which occurred without any warning killed seven individuals.

The victims were 29-year-old 'Alaa Jamal Ali Abd Rabbo, 24-year-old Mohammed Jamal Ali Abd Rabbo, 1-year-old Jamal Mohammed Jamal Abd Rabbo, 3-year-old Rahaf 'Alaa Jamal Abd Rabbo, 20-year-old Ibrahim Jamal Ali Abd Rabbo, 23-year-old Abdallah Jamal Ali Abd Rabbo and 50-year-old Baraka Ibrahim Hassan Abd Rabbo.

The father of 'Alaa Jamal Ali, who witnessed the attack, stated:

"I attended the Isha prayer at the Omari Mosque, after which my son called me, so I ran home but I could not get inside the house as the Israeli army was targeting anyone who would get in. I found a paramedic dead after he tried to get inside the house to save the others. When I could enter the house, I saw seven of my relatives dead, six were wounded."

4.2.1.21 *Abu Amer Family (30.07.2014) [21]*

On Wednesday 30 July 2014 at 07:30, the Abu Amer's family's house located in Abasan al-Kabira, Khan Younis, was targeted by three missiles that hit the top of the family house killing 16 members of the family.

The victims were 36-year-old Ahmed Abu Amer, 40-year-old Ahmed Abu Amer, 41-year-old Mona Abu Amer, 12-year-old Omar Abu Amer, 7-year-old Isa Abu Amer, 5-year-old Azzedin Abu Amer, 20-year-old Mohammed Abu Amer, 8-year-old Yasser Abu Amer, 9-year-old Imad Abu Amer, 10-year-old Abdelghani Abu Amer, 39-year-old Waddah Abu Amer, 3-year-old Suleiman Abu Amer, 10-year-old Marah Abu Amer, 11-year-old Mohamed, 5-year-old Marwa Abu Amer and 41-year-old 'Uruba Abu Amer.

4.2.1.22 *Al-Khalili family (30.07.2014) [22]*

On Wednesday 30 July 2014, at 09:30, a missile was fired from an Israeli F-16 Fighting Falcon, targeting the Al-Khalili's house, located in the neighbourhood of Al Tofah, in Al-Shoja'ya, east Gaza. The attack killed eight people from the Al-Khalili family and destructed their home as well as the family's factory (producing brooms) which was adjacent to their home. Isma'il Al Khalili, one of the survivors and brother of the victims Ashraf and Ahmad said that he found his relative's bodies completely burnt in the rumbles of their home after the attack. No prior warning was given to the family.

The victims were 27-year-old Nida Al-Khalili, 2-year-old Zyad Al-Khalili, 4-year-old Lama Al-Khalili, 5-year-old Deema Al-Khalili, 7-year-old Mahmoud Al-Khalili, 23-year-old Aya Al-Khalili, 36-year-old Ashraf Al-Khalili and 27-year-old Ahmed Al-Khalili.

4.2.1.23 Abu-Shadaq Family (30.07.2014) [23]

On Wednesday 30 July 2014 at 10:30, artillery shells directly targeted the Abu-Shadaq house located in Beit Lahia Western Square, killing two people. According to Leila Mahamad Abdulaziz Abu-Shadaq and Mazozi Mahmoud Kilani Abu-Shadaq, wives of the victims, the deceased were targeted minutes after arriving home from attending a funeral. The attack came without any warning instantly killing 41-year-old Abduljalil Muhamad Kamil Abu-Shadaq and 41-year-old Jamal Shihda Abdulaziz Abu-Shadaq, while they were standing on the roof of the house.

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the bodies of the two men.

4.2.1.24 Al-Na'eem Brothers (31.07.2014) [24]

On Thursday 31 July 2014 at 17:30, a missile was fired by a reconnaissance aircraft (drone) without any warning, towards a van with the Al Na'eem brothers inside, who were delivering lunch to their relatives. The missile destroyed the van killing 20-year-old Muhamad Ra'fat Muhamad Al-Na'eem and 15-year-old Husam Ra'fat muhamad Al-Na'ieem.

The report issued by the Palestinian Authority Ministry of Health state that the cause of death was severe burns covering all the body.

4.2.1.25 Al-Shaer & Abu Kaware' (01.08.2014) [25]

On Friday 1 August 2014 at 18:30, a missile was targeted towards the house of Anwar Khalil Ismail Al-Shaer located in Saddam Street, Khirbat al-Addas, Rafah, killing his 15-year-old son Ibrahim Anwar Khalil Al-Shaer, who was right outside. His father then took his son's body to the Al-Najjar hospital located in Rafah.

Half an hour later, his other son, 18-year-old Badr Anwar Khalil Al-Shaer, and his son-in-law, 28-year-old Ibrahim Talal Shehda Abu Kaware', drove by motorcycle to Al-Najjar hospital. Right before they arrived, they were hit by a missile near the hospital on Amer Al Daheer Street, instantly killing them both.

4.2.1.26 Al-Sha'ir and Abdulwahab Families (02.08.2014) [26]

On Saturday 2 August 2014 at 1:00, two F16 rockets were fired towards the Al-Sha'ir family house in Rafah, Yabnahn Bsheat Camp, killing nine people, and injuring ten others. At the time of the attack, three families with 25 individuals were living in the building.

The blast, which came without any warning, destroyed the house and damaged nearby homes. Those killed were brothers, 57-year-old Muhamad Issa Ismail Al-Sha'ir, 47-year-old Atif Sadi Issa Al-Sha'ir, 45-year-old Issa Sadi Issa Al-Sha'ir and 33-year-old Hani Sadi Issa Al-Sha'ir. In addition, their sister, 45-year-old Nihaya Sadi Issa Abdulwahab and her four children, 15-year-old Haytham Yasir Ahmad Abdulwahab, 13-year-old Ayman Yasir Ahmad Abdulwahab, 9-year-old Lama Yasir Ahmad Abdulwahab and 2-year-old Muhamad Yasir Ahmad Abdulwahab were killed.

Fouad Muhamad Issa Al-Sha'ir, a family member who witnessed the attack stated that:

"the house fell on the head of its inhabitants with many getting trapped in the rubble."

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the bodies. Many of the deceased suffered severe burns and

bodies were left in pieces.

4.2.1.27 *Abu-Sulaiman Family (02.08.2014) [27]*

On Saturday 2 August 2014 at 3:00, a missile was fired towards the Abu-Sulaiman family house in Rafah, Tal Al-Sultan, Al Quds Street, killing seven people, five of whom were children, and injuring eleven others. The assault, which happened while the family was asleep, came without any warning. It further destroyed the two storey building killing 33-year-old Hiba Hasan Abudlrahman Abu-Sulaiman, 10-year-old Rana Raid Muhamad Abu-Sulaiman, 9-year-old Muhamad Rami Muhamad Abu-Sualiman, 3-year-old twins Lama Rami Muhamad Abu-Sulaiman and Rana Rami Muhamad Abu-Sulaiman, in addition to their younger brother 2-year-old Ahmad Rami Muhamad Abu-Sulaiman.

Ra'id Muhamad Muhamad Abu Sulaiman, father of one of the victims, who survived the attack stated that:

"the blast was very strong, I found myself lying in the street, the house was destroyed, and my relatives were all under the rubble. I managed to help one of my daughters, but the other, I could hear her voice but I couldnot reach her, she died."

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of broken bones and extensive shrapnel wounds covering the bodies of the deceased.

4.2.1.28 *Al-Ghoul Family (3.08.2014) [28]*

On Sunday 3 August 2014 at 6:00, a missile targeted the Al-Ghoul family home in Rafah, Yibna, Bashit Camp, killing nine people, the majority of whom were women and children, and injuring nine others. The assault, which happened without any warning, destroyed the house and damaged the buildings around it.

The attack resulted in the killing of 64-year-old Khadra Khalid Ibrahim Al-Ghoul, 63-year-old Ismail Muhamad Jum'a Al-Ghoul, 42-year-old Wa'il Ismail Muhamad Jum'a Al-Ghoul, 33-year-old Muhamad Ismail Muhamad Jum'a Al-Ghoul, 28-year-old Hanadi Ismail Muhamad Jum'a Al-Ghoul and 22-year-old Asma'a Ismail Muhamad Jum'a Al-Ghoul. In addition, 5-year-old Malak Wa'il Ismail Al-Ghoul, 3-year-old Ismail Wa'il Al-Ghoul and 25-day-old Mustafa Wa'il Ismail Al Ghoul were also killed.

Salah Ismail Al-Ghoul, who survived the attack, described the aftermath stating that:

"the destruction was unprecedented; [...] the house collapsed over our heads. I saw my family lying on the ground, others were trapped under the rubbles, the neighbours and emergency staff helped retrieve the bodies from the rubbles."

The report issued by the Palestinian Authority Ministry of Health states that the many of the bodies of the deceased were severely burned and torn to shreds.

4.2.1.29 *Al-Majdalawi Family (3.08.14) [29]*

On Sunday 3 August 2014 at 15:25, an F16 missile targeted the Al-Majdalawi family house in Jabalia Camp, Beer Alna'jeh, killing four, three of whom were children, and injuring 14 others. The assault occurred without any prior warning while the family was at home. The blast led to the destruction of the building and killed 19-year-old Abdulraziq Abdulhadi Mahmoud Al-Majdalawi, 13-year-old Abdullah Abdulhadi Mahmoud Al-Majdalawi, 9-year-old Rawan Ahmad Yousuf Al-Majdalawi and 7-year-old Mahmoud Ahmad Mahmoud.

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the bodies of the victims.

4.2.1.30 *Abu-Nigim Family (03.08.2014) [30]*

On Sunday 3 August 2014 at 21:00, two F16 missiles were fired towards the Abu-Nigim family house in Jabalia Camp, killing seven family members and injuring two others. The assault, which occurred without any warning, destroyed the two storey building and killed, among others, 54-year-old Muhamad Abed Al-Karim Muhamad Abu-Nigim, his three children, 27-year-old Bilal Muhamad Abd Al-Karim Abu-Nigim, 21-year-old Muhamad Muhamad Abed Al-Karim Abu-Nigim and 17-year-old Ahmad Muhamad Abd Al-Karim Abu-Nigim. Their relative, 29-year-old Suha Hamid Abd Al-Karim Nigim Al-Masri and her 4-year-old daughter Raghad Muhamad Sa'di Nigim Al-Masri, were also killed.



Maryam Abu-Nigim and her daughter Rawa'h. Maryam's husband, his two brothers, father and grandfather were killed during the attack. Photo: Muhammd Sabah, B'Tselem, 23 December 2014

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was the result of extensive shrapnel wounds covering the bodies of the deceased.

4.2.1.31 *Aya Al-Shaer (09.08.2014) [31]*

On Saturday 9 August 2014 at 22:50, a missile fired from a drone hit the house of Anwar Khalil Ismail Al-Shaer located in Saddam Street, Khirbat al-Addas, Rafah, killing his 13-year-old daughter Aya Anwar Khalil Al-Shaer who was sleeping in her room.

4.2.1.32 *Al-Rifi family (21.08.2014) [32]*

On Thursday 21 August 2014 at 8:40, the victims were in an empty piece of land owned by the family, located in the neighbourhood of Al Tofah, in Al-Shoja'ya, Gaza. Two missiles were fired from an Israeli F-16 Fighting Falcon without prior warning and aiming at the victims, killing seven members of the family.

The victims were 27-year-old Mohamed Al-Rifi, 9-year-old Omar Al-Rifi, 5-year-old Abdallah Al-Rifi, 7-year-old Maram Al-Rifi, 9-year-old Ziad Al-Rifi, 3-year-old Ahmed Al-Rifi and 37-year-old Nasr Al-Rifi.

4.2.1.33 *Joudie Family (24.08.2014) [33]*

On Sunday 24 August 2014 at 15:30, a reconnaissance aircraft (drone) fired a missile towards the Joudie family house in Jabalia Camp, Tal Alza'tar, killing five people, four of whom were children, and severely injuring one other.

The missile, which was fired without warning while the family was sitting in their yard, killed 43-year-old Rawya Ibrahim Muhamad Muhamad Joudie and her four children: 4-year-old Tasnim Isam Mustafa Joudie, 6-year-old Usama Isam Mustafa Joudie, 8-year-old Muhamad Isam Mustafa Joudie and 12-year-old Muhamad Isam Mustafa Joudie.

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the bodies of family members.

4.2.1.34 *Zayna Bilal Sabri Abu-Taqiya (24.08.2014) [34]*

On Saturday 24 August 2014 at 23:30, an Israeli fighter jet bombed, without a warning, a house in the Al-Shiekh Radwan neighbourhood. At that time, Zayna Bilal Sabri Abu-Taqiya, an 11-month-old baby, was in her house's yard playing on the swing with her father and a group of other children.

The shrapnel from the blast, according to the Palestinian Ministry of Health report, decapitated Zayna Bilal Sabri Abu-Taqiya. She was killed instantly, and her grandmother was severely injured.

4.2.1.35 *Muhammad Abd Al-Rahman Abd Alqadir Dahir and Tamir Midhat Hamad (26.08.2014) [35]*

On Tuesday 26 August 2014 at 14:00, a reconnaissance aircraft (drone) fired a missile towards a car belonging to the North Gaza Electric Company. The assault, which occurred without prior warning, killed two workers and injuring several others who were nearby. 49-year-old Muhammad Abd Al-Rahman Abd Alqadir Dahir and his colleague Tamir Midhat Hamad were killed. The victim, an employee of North Gaza Electric Company, was on duty when his car was targeted. He was not reported to have been involved in the fighting during Operation Protective Edge.

The report issued by the Palestinian Authority Ministry of Health states that the bodies were torn to shreds by the blast.

4.2.2 Legal Analysis: Deaths of civilians resulting from serious violations of International Humanitarian Law

IHL, the branch of international law applying to situations of armed conflicts, contains principles and rules governing the conduct of hostilities. It is on the basis of these norms and principles of IHL that every single attack carried out shall be evaluated in order to assess its legality. However, a single legal analysis of the cases presented above will be presented here, as all the attacks referred to follow a similar pattern.

In the course of an aerial attack, a missile or, in a few cases (n.3, 7, 8, 19, 20, 23) artillery shell was fired and hit a civilian house or a civilian neighbourhood, causing the death of the people residing in it or nearby. In all cases, with only one exception, no warning was provided before the attack. Moreover, none of the victims was reported to have been involved in fighting during the operation.

In order to ensure the protection of the civilian population and objects from the effects of the conduct of hostilities, IHL demands the Parties to the conflict to respect the three fundamental principles of **distinction, proportionality and precaution**. We will also read the consequences of the Israeli action in light of the principle of humanity, cornerstone of IHL as well as the Martens clause saying that hostilities should be conducted in the light of “the laws of humanity and the dictates of the public conscience”. It is in light of these very principles that we will analyse the above-described attacks.

The **principle of distinction** states that “in order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives” (art. 49 API reflecting customary international law). IHL defines military objectives as those objects which by “their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage” (art. 52.2 API).

The **principle of proportionality** (art. 51.5.b API) entails that belligerents shall not commit any act that would be licit *in abstracto*, but would appear obviously illicit *in concreto* because of its excessive character and the absence of a real strategic benefit to the attacker. Proportionality has been integrated in the choices of the means used to attack. Indeed, “the means used by the administrative body must injure the individual to the least extent possible. In the spectrum of means which can be used to achieve the objective, the least injurious means must be used.”⁶

As described previously, the objects struck by the attacks were in most cases houses of Palestinian civilians. We believe that the attacks - which led to the destruction of the houses and the death of the civilians sheltered there - could not have been carried out without prior knowledge of the presence of civilians, and that this element did not stop the Israeli forces from targeting those residential buildings, since this pattern has been widely documented⁷. Evidence show that such a practice was carried out deliberately and with no military justification, blatantly violating IHL principles.

The Israeli Defence Forces argue instead that attacks were not targeting residential buildings themselves but military targets located within them. However, all the victims reported here have never participated to the hostilities during the conflict and were not therefore lawful military targets. It is also noteworthy that this tactic had rarely been used during previous conflicts in Gaza. This practice clearly amounts to war crimes as well as crime against humanity since they were carried out as part of a widespread and systematic attack towards the civilian population.

⁶ Supreme Court of Israel, Beith Sourik Village versus the Government of Israel, 30 June 2004, available here: <https://www.icrc.org/applic/ihl/ihl-nat.nsf/46707c419d6bdafa24125673e00508145/09d47365bd007706c12575c20046ec2a?openDocument> (accessed on 31 January 2015).

⁷ The Guardian, *Israeli rights group questions legality of targeting Gaza homes in war*, <http://www.theguardian.com/world/2015/jan/28/israel-policy-targeting-gaza-homes-human-rights>, 28 January 2015 (accessed on 28 January 2015).

Alternatively, even in the event that the attacks causing the death of the victims resulted from the targeting of legitimate military objectives – although there is no allegation of such a fact from the information collected by Alkarama research team on the ground – we wish to recall that even these attacks must not be indiscriminate or violate the principle of proportionality. Indiscriminate attacks are those which employ a method or means of combat which cannot be directed at a specific military objective or the effects of which cannot be limited as demanded by IHL.

In the cases documented here, it is the type of weapons employed – i.e. explosive weapons – that caused the majority of the deaths. As documented by the death certificates issued by the Palestinian Authority shrapnel wounds caused many of the deaths, therefore by the reverberating effects of the weapons used in the attack. This shows that the attacks carried out had clearly indiscriminate effects. The extensive amount of civilian casualties who died from shrapnel inflicted damages also shows that the weaponry itself is not suitable given the high concentration of civilians in the Gaza strip.

In this regard, it is noteworthy to recall that due to the density of inhabitants, the Gaza strip is considered one of the mostly densely populated areas in the world⁸. In such a context, the use of explosive weapons is particularly dangerous, because of their wide-scale impact and devastating consequences for civilians. The use of artillery and air-launched missiles in such an area create in fact a heavy toll and civilians and therefore, “the use of such weapons in populated areas – where there is a strong likelihood of indiscriminate effects due to their imprecision or large blast and fragmentation range – is unacceptable.”⁹

The content of the proportionality and distinction principle have to be assessed taking into account the likelihood of a high concentration of civilians and the means of the attacks, including the type of weaponry used. We argue that the extremely high amount of death by shrapnel, widely documented during the whole period of the attack, shows that no regard was given to the consequences on surrounding civilians in the use of weaponsry and methods of attacks.

We believe that considering that Israel, having one of the most powerful armies in the world, is endowed with advanced systems of intelligence gathering and high-technology weaponry, it is clear that it can with no doubts achieve its military objective in a way that respects the principles of distinction and proportionality. In particular, the fact that the attacks were carried out by drones, tools that are provided with high-technology and high-precision launch devices, leads us to conclude that such tactics of war were deliberately employed and show the recklessness – if not the willingness – to select tactics that are deadly for civilians. Of particular relevance here the testimony of a witness of an attack, showing that inhabitants of the Gaza strip there is no safe place where they can, or could seek refuge: “due to the intensity of shelling near our home we decided to move to our uncle’s house. There we were targeted by an artillery shell killing my brother”.

IHL prohibits Parties to the conflict from carrying out 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, in respect to the principle of proportionality. This principle entails that belligerents shall not commit any act that would be licit *in abstracto*, but would appear obviously illicit in concretobecause of its excessive character and the absence of a real strategic benefit to the attacker. IDF shall have, in the occasion of each attack, anticipated the loss of civilian lifes.

As the attacks were directed to civilian houses usually in the evenings or nights, a time during which people are normally at home, it is difficult to believe that IDF was not aware of the presence of several civilians, and for instance many children, in their homes at the times of the attacks. It appears then that the

⁸ UNDP, <http://www.undp.ps/en/aboutundp/aboutpalpp.html> (accessed on 27 January 2015).

⁹ ICRC, *ICRC alarmed over unacceptable use of explosive weapons in urban areas*, 13 October 2014, <https://www.icrc.org/en/document/weapons#.VMeLAqJLBXU> (accessed on 27 January 2015).

attacks were carried out deliberately knowing that these civilians' death would result and it seems difficult to imagine which military advantage could have been allowed for such losses of life and destruction. Furthermore, we would like to note that in some instances the attacks were directed at buildings close to mosques at times coinciding with the return from the prayer. Even in such cases, the forces launching out the attack decided to carry it out, knowing that there would lead to civilians' deaths. Attacks on mosques were carried out despite the fact that places of worship enjoy special protection in IHL according to art. 53 API reflecting customary international law and shall never be the object of attacks or reprisals.

Finally, while planning an attack, Parties to the conflict have to respect the **principle of precaution**, namely to "take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and to any extent to minimising, incidental loss of civilian life and refrain from deciding to launch any attack which may be expected to cause incidental loss to civilian life" (art. 57.2.i and ii API).

It is here to be recalled that in one case (n. 11), the attack was carried following a previous attack, while the people were evacuating the house. In this case, it is clear that the attacking party should have known and noticed that people were escaping, and instead of refraining from attacking, it deliberately carried the attack, causing the (expected) loss of lives, in disregard of IHL.

As for the requirement that "effective advance warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit" (art. 52.2.b API and customary international humanitarian law), we regret to note that in all the cases here no warning was ever given, except for one case (n. 18). Thus, in the majority of cases, the principle of precaution has been voluntarily disregarded, causing the deaths of civilians, especially considering that the majority of the attacks were carried out at night, at a time during which it is expected that people be at home (and even, in the case at hand, sleeping).

In the sole case in which a warning was given, the roof-knocking technique was used, namely firing rubber bullet on the roof of the house prior to attack. According to a declaration made by a survivor of the incident, the people in the house did not understand it was a sign to leave, especially due to the fact that the accident happened at night, when everybody was sleeping. IHL however requests the party carrying out the attack to give effective warnings. On the definition of an "effective warning", the United Nations Fact Finding Mission on the Gaza Conflict in 2009 declared that: "a credible warning means that civilians should be in no doubt that it is intended to be acted upon, as a false alarm or hoax may undermine future warnings, putting civilians at risk"¹⁰. The Mission therefore found that:

In the context of a large-scale military operation including aerial attacks, civilians cannot be expected to know whether a small explosion is a warning of an impending attack or part of an actual attack and notes that the legal requirement of effective warnings means that it should not require civilians to guess the meaning of the warning. The technique of using small explosives to frighten civilians into evacuation, even if the intent is to warn, may cause terror and confuse the affected civilians. [...] Finally, apart from the issue of fear and ambiguity, there is the question of danger. The idea that an attack, however limited in itself, can be understood as an effective warning in the meaning of article 57 (2) (c) is rejected by the Mission. It is worrisome to note that, despite the conclusion reached by the Mission 5 years ago, IDF keeps using the same illegal method for warnings.¹¹

Therefore, also for the sole case in which the roof-knocking technique was employed, this represents a

10 Human Rights in Palestine and Other Arab Territories, Report of the United Nations Fact-Finding Mission on the Gaza Conflict, 25 September 2009, A/HRC/12/48 (2009), para. 530, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf> (accessed on 27 January 2015).

11 Ibidem, para. 532 – 535.

violation of the IHL principle of precaution.

In conclusion, the deaths of the victims here documented resulted from attacks that seriously violated IHL. Resulting clearly from indiscriminate and disproportionate attacks, where the duty to take all feasible and effective precautions was totally disregarded, the civilian deaths occurred as a consequence of acts that amount to serious breaches of International Humanitarian Law (as provided by art. 85 API reflective of customary international law) and war crimes as defined in the Rome Statute¹².

We thus believe that none of the cases documented above could be justified under the principle of distinction and precaution and that given the civilian nature of the casualties, the attacks could not have been proportionate or necessary to any kind of military strategy. Stating the contrary would entail that the military strategy itself is one of collective punishment of civilians including the deliberate killing of entire families, a high proportion of which being children. The consequence of such a statement is heavy in terms of morality and international law. The International Criminal Tribunal for the former Yugoslavia (ICTY) has for example repeatedly reiterated that “any attack directed at the civilian population is prohibited regardless of the military motive”¹³.

Although the official position of the Israeli authorities has been that combatants were hiding within the civilian population and that collateral damages were thus inevitable, international jurisprudence has already found in similar circumstances that a high proportion of civilian victims could go against such a statement made by the attacker¹⁴. Furthermore, the Israeli authorities have been arguing that the high amount of civilian casualties caused by attacks are the responsibility of Hamas since according to them, the Hamas armed forces were surrounding themselves with civilians that they used as “human shields”. We express our doubts and concern regarding such argument for two main reasons, practical and legal. Indeed, in practice, the fact that Hamas combatants were surrounded by civilians is not a direct consequence of a strategy to use “human shield” but rather a correlation due to the fact that Gaza is the most densely populated area in the world. Secondly, even if human shields were to be used, it does not absolve the Israeli forces from abiding by IHL rules of distinction and proportionality before attacking, and by the principle of accountability after attacking. Indeed, even if the attacked forces used “human shields” to protect themselves, the fact that attacking forces knew of the presence of the civilians, the primacy of the principle of protection of civilians makes it impermissible to target these civilians. In addition, a violation of IHL by the other party to the conflict does not exempt the attacker of its responsibility to respect IHL principles of distinction and proportionality¹⁵.

We would moreover wish to highlight that despite the very large public coverage of civilian deaths from the very first day of the operations, the Israeli military command and political leadership did not change the means of attacks in such a way as to prevent future violations. Instead, the cases documented show that a clear pattern of violation remained during the whole period of the operation. It is of outmost importance for a regular army that violations of IHL should be, if not prevented, at least punished and should lead to the modification of the military strategy in order to avoid such acts from happening again. This obligation of non-repetition of an international law violation has to be implemented by clear orders from the commanders and political leaders. If not, the commanders themselves should be held responsible of such violations under the command responsibility doctrine. Commanders of the Israeli army had effective control over their soldiers and knew, or should have known, that an extremely high proportion of casualties were civilians, and especially women and children. Despite having the knowledge of such a fact and effective control over their troops, no measure was taken in order to avoid future violations. Thus, if viola-

12 The violations enumerated may amount to a violation of art. 8.a.i, 8.b.i, 8.b.ii, 8.b.iv, 8.b.v, 8.b.ix, 8.b.xx of the Rome Statute.

13 D. Milosevic Case, International Criminal Tribunal for former Yugoslavia, ICTY-98-29/1-T, 12 December 2007, para.906.

14 Kordic & Cerkez Case, International Criminal Tribunal for former Yugoslavia, ICTY-95-14/2-A, 17 December 2004, para.446.

15 Galic Case, ICTY-98-29-T, 5 December 2003, para.61.

tions of IHL are established, the responsibility of soldiers, commanders as well as political leaders should be assessed and should have the expected consequences in terms of international criminal liability.

4.3 CASES OF SPECIAL CONSIDERATION

The cases reported here below are analysed separately, because of the peculiarity in the facts presented which merit a specific legal assessment.

4.3.1 Al-Batch Family (12.07.2014) [36]

On Sunday 12 July 2014 at 21:45, an Israeli fighter jet bombed the house of Taysir Mustafa Sleem Al-Batch, Gaza's Chief of Police, with two F16 missiles. The attack occurred when people were leaving Ramadan "Tarawieh" prayers from the Al-Haramain Mosque in Alsha'af area. The explosion killed 18 people from the Al-Batch family: 4 women, 5 children, 9 men, and injured Brigadier Al-Batch himself in addition to several others.

The assault, which occurred without any warning, destroyed the Al-Batch family house and damaged the surrounding area, killing: 50-year-old Majid Subhi Ismail Al-Batch, 25-year-old Marwa Majid Subhi Al-Batch, 19-year-old Samah Ala'a Subhi Al-Batch, 2-year-old Amal Hasan Muhammad Ali Al-Batch, 12-year-old Qusay Isam Subhi Al-Batch, 49-year-old Amal Baha'a Majid Al-Batch, 22-year-old Mahmoud Majid Subhi Al-Batch, 26-year-old Jala Majid Subhi Al-Batch, 21-year-old Zakariya Ala'a Subhi Al-Batch, 21-year-old Ibrahim Majid Subhi Al-Batch, 41-year-old Nahid Naim Subhi-Al-Batch, 28-year-old Baha'a Majid Subhi Al-Batch, 60-year-old Aziza Yousuf Ahmad Al-Batch, 17-year-old Muhammad Isam Subhi Al-Batch, 10-year-old Anas Ala'a Subhi Al-Batch, 20-year-old Khalid Majid Subhi Al-Batch, 18-year-old Yihia Ala'a Subhi Al-Batch and 13-year-old Manar Majid Subhi Al-Batch.

In this case, the target of the attack is the house of Gaza Chief of Police, which according to reports, seems to have been targeted precisely for this reason.

If this assumption holds true, it entails that Gaza's Chief of Police was considered himself a military target. The question is therefore to establish whether Police Forces are to be considered combatants. The general rule of IHL is that members of law-enforcement agencies are to be intended as part of the civilian population, unless they have been incorporated into the armed forces of the party to the conflict. Police members shall then be considered as civilians and spared from attack. On the contrary, and at least during the Operation "Cast Lead" in 2009, the IDF seemed to consider Gaza's police as equivalent to the enemy's armed forces and thus, legitimate military targets.

Facing this question, the Fact Finding Mission on the 2009 conflict had found that there was not sufficient information to conclude that the Gaza police had been incorporated but that at the time police forces had agreed "to face [...] the enemy, if the Gaza Strip were to be invaded", meaning that in the event of a ground invasion, and particularly if the Israeli armed forces were to enter urban settlements in Gaza, the police was to continue its work of ensuring that food reached the population, directing the population to safe places, and upholding public order in the face of the invasion¹⁶.

Considering that reports do not refer to Mr Al Batch being involved in military operations against the IDF during the conflict in Gaza, there is no reason as to why the police's instruction would have changed since the past conflicts. In addition, we wish to recall that, even if the police was instructed to engage in fighting against IDF, this could have happened only after the beginning of IDF's ground invasion, which took place from 18 July 2014, i.e. six days after Mr Al Batch's death. It is therefore argued here that if his house had been hit to target him, it was in violation of the principle of distinction.

¹⁶ Human Rights in Palestine and Other Arab Territories, Report of the United Nations Fact-Finding Mission on the Gaza Conflict, *ibid.*, para. 412 and following.

Finally, as no warning was launched prior to the attack, the attack at stake clearly violate the principle of precaution as enshrined in art. 57.2 and 57.4 API and customary international law.

To conclude, the attack causing the deaths of civilians reported above is a serious violation of the principle of distinction, or at least constitutes an indiscriminate and disproportionate attack. The deaths resulting from this attack are clearly grave breaches of IHL (as provided by art. 85 API, reflective of customary international law) and, therefore, amount to war crimes¹⁷.

4.3.2 Bakr Children (16.07.14) [37]

On Wednesday 16 July 2014 at 16:00, an Israeli gunboat targeted a group of young children while they were playing on the beach in Gaza. The attack, which came without any warning, killed four children and injured four others, from the same family. The attack killed 9-year-old A'hid Atif A'hid Bakr, 9-year-old Ismail Muhamad Subhi Bakr, 10-year-old Zakaria A'hid Subhi Bakr and 10-year-old Muhamad Ramiz Izat Bakr.

Peter Beaumont, a journalist from The Guardian who witnessed the attack, stated that: "[T]he first projectile hit the sea wall of Gaza City's little harbour a little after four o'clock. As the smoke from the explosion thinned, four figures could be seen running, ragged silhouettes, legs pumping furiously along the wall. Even from a distance of 200 meters, it was obvious that three of

A Palestinian man carries the body of one of the four boys from the Bakr family who were killed by an Israeli airstrike while playing in the Gaza beach.



them were children. Jumping off the harbour wall, they turned on the beach, attempting to cross the short distance to the safety of the Al-Deira hotel, base for many of the journalists covering the Gaza conflict. They waved and shouted at the watching journalists as they passed a little collection of brightly coloured beach tents, used by bathers in peacetime. It was there that the second shell hit the beach, those firing apparently adjusting their fire to target the fleeing survivors. As it exploded, journalists standing by the terrace wall shouted: **"They are only children."** In the space of 40 seconds, four boys who had been playing hide and seek among the fishermen shacks built on the wall were dead"¹⁸.

According to other media reports, the IDF affirmed that it had aimed at " Hamas terrorist operatives" and that the "reported civilian casualties from this strike are a tragic outcome"¹⁹. In a television interview, a spokesperson for the Israeli Prime Minister affirmed that the children had been killed due to "mistaken fire"²⁰. However, according to evidence collected by the Office of the High Commissioner for Human Rights

¹⁷ A violation of art. 8.a.i, 8.b.i, 8.b.ii, 8.b.iv, 8.b.v, 8.b.ix, 8.b.xx of the Rome Statute.

¹⁸ Peter Beaumont, *Witness to shelling: first hand account of deadly strike on Gaza port*, The Guardian, 16 July 2014, <http://www.theguardian.com/world/2014/jul/16/witness-gaza-shelling-first-hand-account> (accessed on 27 January 2015).

¹⁹ Ibidem.

²⁰ CNN, Israel, *Hamas OK temporary ceasefire: Five hours on Thursday*, edition.cnn.com/2014/07/16/world/meast/mideast-crisis/ (accessed on 28 January 2015).

(OHCHR), there were no apparent military targets: “the area was calm and no rockets were fired towards Israel from that location at that time”²¹ while according to the report of the witness, IDF was deliberately targeting the children on the beach.

Deliberately targeting children playing on a beach is a heinous act that violates the very basic principles of humanity, upon which IHL is constructed. The fire was precisely directed towards the children on the beach, who were clearly recognisable already at the first shelling. During the second shelling, it was then clear that the children were targeted as Beaumont’s report relates of “adjusting the fire to the fleeing survivors”, and that despite the shouts of bystanders, the attack continued.

This attack is of the outmost gravity since those targeted were children. A category placed under special protection in IHL, children should never be the object of attack. Even in this case, IDF forces are therefore responsible of the commission of a war crime.

Funerals of the four boys killed by the IDF during the attack on Gaza Beach.



4.3.3 Al-Hajar Family (29.07.2014) [38]

On Tuesday 29 July 2014 at 16:00, a car belonging to the Al-Hajar family was bombed by an artillery shell, killing two brothers, 48-year-old Bashir Ibrahim Muhamad Al-Hajar and 38-year-old Muneer Ibrahim Muhamad Al-Hajar. At the time of the incident, the agricultural land next to the Al-Hajar family house in Jabalia Camp, Beer Alnaa’jeh, was hit by artillery shells. Due to the heavy shelling the brothers tried to escape the area when a shell hit their car, killing them instantly.

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wound covering the bodies of the brothers.

In this case, the victims died as a consequence of an attack that reached the fields near their house. IHL provides that attacks to objects indispensable to the survival of the civilian population, such as agricultural land are prohibited. These objects shall not, as well, be the object of reprisals (art. 54 API of customary nature, rule 54).

Even if the agricultural land was not the target of the attack, the attack was carried out in an indiscriminate

²¹ 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 - 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, Human Rights Council Twenty-eighth session Agenda items 2 and 7 Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General Human rights situation in Palestine and other occupied Arab territories - A/HRC/28/80/Add.1, 26/12/2014, www.ohchr.org/Documents/Countries/PS/A.HRC.28.80.Add.1.doc (accessed 28 January 2015).

manner, as the effects of the attack did not manage to spare the two victims while they were leaving the area. In addition, the obligation to take precautionary measures was not upheld and no warning was issued, in violation of IHL. This case is a further example of war crimes committed during the Operation “Protective Edge” by the IDF.

4.4 ATTACKS ON PALESTINIAN CIVILIAN OBJECTS

This section presents a documentation of 24 attacks on other civilian objects and goods, including on protected objects in IHL, such as hospitals. The legal analysis of the attacks leading to the destruction of such objects and the resulting loss of lives will prove that these attacks were carried out in violation of IHL norms and principles.

4.4.1 Attacks on Hospitals

During the course of Operation “Protective Edge”, a number of hospitals were also targeted. Below is provided documentation for a number of these cases, which represent serious violations of the law of armed conflicts and amount to war crimes.

4.4.4.1 Balsam Hospital (23.07.2014) [1]

On Wednesday 24 July 2014, artillery shells fired by Israeli Forces targeted the Balsam Hospital, north of the Gaza Strip. The assault, which came without any prior warning, targeted and destroyed the Departments of Obstetrics, Gynaecology, Operations and the High-risk Pregnancy Unit. The hospital’s third floor was also destroyed, in addition to the administration section and the Department of Pharmacology. Fadi Abu-Awad, the hospital’s administrative manager, stated that the Israeli forces further targeted the hospital surrounding areas. Subsequently and due to the dangerous situation, it was decided that the hospital be evacuated.

4.4.4.2 Beit Hanoun Hospital (25/26.07.2014) [2]

Between Friday 25 July 2014 at 19:00 and Saturday 26 July 2014 in the early morning, Beit Hanoun Hospital was targeted by artillery shells and missiles from a reconnaissance aircraft (drone). The hospital was filled with patients and also served as a shelter for displaced persons when it was targeted. Four people were injured in the assault and the Paediatric Operations Department, Emergency Unit, oxygen production station and the hospital’s yard were all targeted and destroyed.

According to Abdulaziz Musbah Abulsalam Qasim, administrative manager of the hospital, “areas around the hospital were constantly targeted between 19:00 and 23:00. The powerful blasts caused severe damage to the hospital. At 23:00, the [first wave of] direct targeted shelling on the hospital buildings began. It continued until 1:00 in the morning.” The Red Cross was then contacted to approach the Israeli authorities which said they would not target the hospital. However, “the shelling continued”, he said. The Red Cross was contacted for the second time to approach the Israeli authorities and it was then requested to “evacuate the hospital within 20 minutes”. However, “there was not enough time to evacuate the patients and workers from the hospital”, he said. In addition, “the indirect shelling never stopped during that time, and it was too dangerous to evacuate everyone in these conditions”.

When the attack ended, and due to the severe destruction caused by the direct targeting, its close proximity to the Israeli military equipment, and the fear it would be targeted again, the hospital was evacuated and postponed its services for a few days.

4.4.1.3 *Legal analysis*

In addition to the general protection provided by IHL to civilian objects from the effects of hostilities, hospitals and medical centres enjoy a special protection due to their function in treating the wounded and sick. The protection of hospitals and medical personnel lies at the core of IHL.

It is here noteworthy to recall that the Geneva Conventions and customary international law provide that “hospitals [...] may in no circumstances be the object of attack but shall at all time be respected and protected by the Parties to the conflict” (art. 19 GCI, 18 GCIV, 12.1 API); “protection [...] shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, naming, in all appropriate cases, a reasonable time limit, and after such warning has remained unheeded” (art. 21 GCI, 19 GCIV).

In both cases reported, there was no evidence that the hospitals diverted from their “humanitarian duties”. Beit Hanoun hospital, in addition to its medical functions, was additionally performing as shelter for people displaced by the conflict. According to reports, the hospitals were directly targeted in the course of aerial attacks, indicating a deliberate attack by the IDF on these protected sites, in a clear serious violation of the basic principles of the law of armed conflict.

Additionally, had an evidence existed of the hospitals’ diversion from their humanitarian duties, before carrying the attacks, proper warnings should had been provided and a “reasonable time limit” given to evacuate the patients. Before the attack on the Balsam Hospital was carried out, no warning was provided. In the case of Beit Hanoun hospital, 20 minutes were given by IDF to evacuate the hospital, after several calls from the ICRC. It is impossible to qualify this measure as a proper warning. There is in fact a duty on the attacking party to give an effective warning prior to the attack, while in this case the targeted shelling of the hospital started without any warning at all, and the possibility to evacuate the hospital was agreed only through to the mediation of the ICRC. Nevertheless, the 20 minutes provided by the Israeli forces to evacuate the hospital of the sick and wounded does not, in our opinion, qualify to the threshold of a “reasonable time limit”.

Finally, it is to be pointed out that the 20 minutes time for evacuating the hospital, as agreed, were never implemented, as the combat continued. This is of the outmost gravity as well and is a further confirmation that the obligation to give a due warning with a reasonable time limit was completely disregarded.

Unlawful attacks on hospitals qualify as serious breaches to the Geneva Convention and therefore as a war crime (art. 50 GCI, 51 GCII, 147 GCIV and 85.2 API and customary international law, ICC Statute art. 8.a.iv, 8.b.ix).

4.4.2 *Attacks on Schools and Nurseries*

A number of schools and nurseries were targeted during the Operation. Below is provided a documentation of one of these incidents and a legal analysis demonstrating that those attacks violated and IHL and thus amount to war crimes.

4.4.2.1 *Khuza’a Nursery Schools (23.07.2014 & 24.07.2014) [3]*

On Wednesday 23 July 2014 at 10:00, the nursery school No.1 of Khuza’a (Khan Younis), located in Annajar Avenue, was bombed by the IDF. The shells fired from IDF tanks destructed a big part of the nursery school, in particular the area hosting the children’s rooms. No warning was given prior to the attack.

On Wednesday 23 July 2014 at 22:30, the nursery school of Kuzah’a, situated in Khuza’a, Radwan neighbourhood, was hit by a bombardment launched by a joint IDF aerial and ground attack, which led to the

partial destruction of its building. 30 people were present at the time of the attack. No warning was given prior to the launch of the attack.

On Thursday 24 July 2014 at 09:00, IDF bulldozers partially destroyed the Khuzha'a nursery school situated in the Abu Raeda neighbourhood, in Khuza'a, Khan Younis. The attack was carried out without any prior warning, and the area was subsequently occupied by the IDF.

4.4.2.2 UNRWA Beit Hanoun School (A+D) (24.07.2014) [4]

On Thursday 24 July 2014 at 15:00, artillery shells directly targeted the UNRWA Beit Hanoun Elementary Mixed School (A+D), which served as a shelter for displaced persons. The attack, which came without direct warning, killed 19 people and injured 200 others. A lot of confusion revolves around the incident. Among those killed were: 16-year-old Abd Rabbo Shiboub Ahmad Al-Shinbari, 40-year-old Felestine Hussein Hassan Al-Shinbari, 9-year-old Abdallah Shiboub Ahmad Al-Shinbari, 13-year-old Mariam Shiboub Ahmad Al-Shinbari, 26-year-old Soumaya Ahmad Tawfiq El-Kafarna, 47-year-old Fatima Mohammad Ayoub, 21-year-old Bilal Ahmad Tawfiq Al-Shinbari and 22-year-old Ikram Ahmad Tawfiq Al-Shinbari.



Palestinian medics run carrying children, wounded in an Israeli strike on a compound housing a U.N. school in Beit Hanoun, into the Kamal Adwan hospital in Beit Lahiya on 24 July 2014.

Kamil Husain Ahmad Kafarneh, the manager of the UNRWA shelters, explains that he was at the Beit Hanoun UNRWA School when he received a phone call asking him to evacuate another school, on the other side of town, which had received a warning. However, before leaving, the Mayor of Beit Hanoun arrived to UNRWA Beit Hanoun Mixed School and urged people to leave to school, claiming it was not safe. **“UNRWA had no information regarding any intention to target this particular school”**, he said. However, due to the tension created by the Mayor's information, UNRWA decided to transport the people to a more secure place. A few minutes later, while the displaced persons were gathering to be moved, the school was targeted.

It transpired that the school that received a warning was never targeted, but the one that did not, was.

4.4.2.3 UNRWA Elementary Girls School (A+B) in Jabalia [5]

On Wednesday 30 July 2014 at 5:00, a number of artillery shells indiscriminately targeted the UNRWA Elementary Girls School (A+B) in Jabalia and the area surrounding it, killing 21 people and injuring 100 others. The school served as a shelter for displaced persons at the time it was attacked. According to the declarations of UNRWA Commissioner General Pierre Krähenbühl released the day following the attack, **“these are people who were instructed to leave their homes by the Israeli army. The precise location of the Jabalia Elementary Girls School and the fact that it was housing thousands of internally displaced people was communicated to the Israeli army seventeen times, to ensure its protection; the last being**

at ten to nine last night, just hours before the fatal shelling”²².

The assault, which came without any warning, killed many people inside the school as well as outside it. Among those killed were members of the Al-Najar family, 42-year-old Basim Khalid Ahmad Al-Najar and 54-year-old Shahir Khalid Ahmad Al-Najar who were in their home located in Jabalia Camp, Block 7, next to the school, when they were bombed. Other victims were members of the Al-Amodi family, 53-year-old Mishit Ahmad Shihadah Al-Amodi, 26-year-old Bilal Midhat



Classroom struck by Israeli artillery shells. Photo: Shareef Sarhan, UNRWA Archives.

Photo: Shareef Sarhan, UNRWA Archives.

Ahmad Al-Amodi and 18-year-old Abdullah Midhat Ahmad Al-Amodi who were also in their home, located in Jabalia Camp, Block 7, at the time of the attack. Furthermore, members of the Salman, Alferi and Abu-Al-Dayim families were also killed, 40-year-old Ibrahim Muhammad Khadir Salman, 23-year-old Ramadan Khadir Ramadan Salman, 17-year-old Alla’a Khadir Ramadan Salman, 48-year-old I’timad Ibrahim Khadir Salman, 67-year-old Nasrah Ahmad Muhammad Salman, 25-year-old Amjad Khadir Ramadan Salman, 33-year-old Loai Tala Khamis Alferi, 21-year-old Jihad Arafat Muhamad Abu-Al-Dayim and 48-year-old Abduljalil Jihad Arafat Abdu Al-Dayim. All of the victims above were displaced persons taking shelter in the school at the time of the attack.

The report issued by the Palestinian Authority Ministry of Health states that the cause of death was a result of extensive shrapnel wounds covering the bodies of the victims.

4.4.2.4 Nursery “Birds of Paradise” (01.08.2014) [6]

On Friday 1 August 2014 at 11:30, the Kindergarten “Birds of Paradise”, situated in avenue Al Maasara, El Janina neighbourhood in Rafah, was bombed by the IDF. The attack, which came without any prior warning, led to the total destruction of the building hosting the nursery.

4.4.2.5 Legal Analysis

In both cases of attacks on UNRWA schools, the facilities were attacked by IDF with the knowledge that they were serving as a shelter for persons displaced by the conflict. All those who were killed were civilians.

Targeting schools and civilian shelters is a clear violation of IHL, since they are objects protected from the effects deriving from the conduct of hostilities, as laid out in the provisions contained in art.52 API and customary international law relating to the conduct of hostilities. If directly targeted, their attacks clearly violate the principle of distinction. However, even if the attacks were not targeting the schools themselves, but rather other military objects nearby, still, the shelling of the school represents at least an indiscriminate and disproportionate attack.

²² UNRWA, Gaza Situation Report, Issue 22, <http://www.unrwa.org/newsroom/emergency-reports/gaza-situation-report-22>, 30 July 2014 (accessed on 28 January 2015).

In addition, no prior warning was provided neither to the UNRWA nor to the civilian population, in clear violation of art. 57 API. Worse, in the case of the UNRWA Beit Hanoun Mixed School, the only warning provided by the IDF resulted in a false message, as the school announced to be bombed was another one and not the one that was actually hit.

The IDF wilfully or at least recklessly took the decision to attack the schools not leaving the displaced persons sheltered there any possibility to escape. This heinous act qualifies as serious breach to the Geneva Conventions (art. 147 GCIV) and therefore as a war crime²³. The Rome Statute also specifically provides that intentional attacks to buildings dedicated to education are a war crime as per art. 8.2.b.ix.

4.4.3 Attacks on Charities and Associations

4.4.3.1 *Al Waleed Disabled Association (23.07.2014) [7]*

On Wednesday 23 July 2014 at 10:00, the Al Waleed Association, situated in Khuza'a – Mufida Al Radwan was bombed by the IDF. The bombing led to the destruction of the upper floor of the building hosting the association and a fire destructed the entire building.

The Al Waleed Disabled Association was devoted to the rehabilitation of persons with disabilities and social development since 2006.

4.4.3.2 *Youth Centre "Tomorrow" (23.07.2014) [8]*

On Wednesday 23 July 2014 at 16:00, the Youth Centre "Tomorrow" (working licence No. 267 issued by Gaza Ministry of Youth and Sport and Ministry of Interior), located in Absane Al Jadida, Khan Younis, was shelled by IDF tanks. The attack, which occurred without any previous warning, led to the partial destruction of the building where the Youth Centre was located.

4.4.3.3 *Charity Beit Al Mustaqbal (24.07.2014) [9]*

On Thursday 24 July 2014 at noon, the charity Beit Al Mustaqbal was shelled by IDF F-16 military aircrafts. The IDF aerial attack, which occurred without any prior warning, led to the partial destruction of the building hosting the charity.

Beit Al Mustaqbal charity (working licence No.7113 issued by Gaza Ministry of Interior) is located in Abou Rahma in Khuza'a, Khan Younis, and is dedicated to social development since 2001.

4.4.3.4 *Bara'em Developing Association, Khuza'a (27.07.2014) [10]*

On Sunday 27 July 2014 at 09:00, the IDF tanks shelled the Bara'em Association, situated in Abu Raeda neighborhood in Khuzah'a. The tanks destructed the external fence and part of the building before entering it. No warning was given prior to the attack.

4.4.3.5 *Al Batul Charity (01.08.2014) [11]*

On Friday 1 August 2014 at 01:00, Al Batul Charity was bombed by the IDF, causing its partial destruction. The attack was apparently targetting the house of Mr Mohammed Al Soufi, who belonged to the charity. No warning was given prior to the attack.

The charity, located in Airport Avenue, Al Shuka, Rafah, was dedicated to socio-cultural and agricultural activities.

²³ As per art. 8.a.2.i, 8.2.a.iv, 8.2.b.i, 8.2.b.ii, 8.2.b.iii, 8.2.b.ix Rome Statute.

4.4.3.6 Cultural Association (01.08.2014) [12]

On Friday 1 August 2014 at 01:00, the Cultural Association (Working licence No. 7221 issued by the Ministry of Interior and Culture), situated in the Qashtah building in the city of Rafah was shelled by the IDF. The attack, carried out without any prior warning, led to the total destruction of the building hosting the cultural association.

4.4.3.7 Virgin Mary Charity (01.08.2014) [13]

On Friday 1 August 2014 at 11:30, the Virgin Mary Charity was hit by bombs launched by the IDF, which led to its partial destruction. The attack was carried out without any prior warning.

The charity, situated in avenue Abu Halawa in Al Shuka village, near Rafah (working licence No. 7987 issued by Gaza Ministry of Interior) was devoted to social, cultural and agricultural works since 2007.

4.4.4 Attacks on Industries and Firms

In July 2014, during Operation “Protective Edge”, a number of industries and firms, in particular in Beit Hanoun industrial zone, were targeted for most of them without any warning. A large number of factories and companies were destroyed. The livelihood of many people was affected and their source of income was damaged, as a result, in addition to the Palestinian local economy. Below is provided documentation of a number of these cases.

4.4.4.1 Al-Nakhla Company for Industry and Commerce (22.07.2014) [14]

On Tuesday 22 July 2014 at 2:30, Israeli artillery shells targeted the factory buildings of Al-Nakhla Company (No. 563134477) located in the Beit Hanoun industrial zone. The company owns a number of factories for producing batteries, notebooks, biscuits, juice and potato chips, which are located in both the northern and southern areas of Beit Hanoun industrial zone. The shelling, which came without any warning, resulted in the destruction of the factory building, the raw materials for production, and other products ready for distribution. The factories equipments were also destroyed. The company estimates its losses at approximately USD 11.5 million.

4.4.4.2 Hussein Srour & Bros. Company for Plastic Industry & Trade (22.07.2014) [15]

On Tuesday 22 July 2014 at night, artillery shells directly targeted the Hussein Srour Co. and Brothers factory (No. 563448588) building, located in Beit Hanoun industrial zone. The company, established in 1998, produces plastic tools and equipment for home use for the local market. The shelling, which occurred without any warning, resulted in the destruction of the factory building and materials ready for distribution. The factory’s equipment was also destroyed. Hussein Muhamad Srour, owner of the factory, describes what happened as follows: ***“The guard called me and informed me that the factory was targeted, my brother rushed to the area and I followed him, we were surprised to find out that the factory was burned to the ground.”*** The company estimates its losses at approximately USD 2.9 million.

4.4.4.3 Yasir Ismail Ramlawi Plastics Factory (29.07.2014) [16]

In the morning of Tuesday 29 July 2014, Israeli forces bombed Yasir Ismail Ramlawi Plastics Factory, located in Beit Hanoun industrial zone. The factory was established in 2009 and licensed by the Ministry of Industry. Nasir Yasir Ismail Ramlwai, the son of the factory’s owner, describes the attack as follows: ***“I received a phone call informing me that our factory was bombed. We tried to enter the industrial zone, in coordination with the Red Cross, but without any success. On Saturday, at the time of the 12-hour cease-fire, we managed to enter the area. We were surprised that the factory was burned and destroyed.”*** All the

equipment were burned and destroyed. The company losses are estimated at approximately USD 3 million.

4.4.4.4 Al Shorouk Tower (27.07.2014) [17]

On Sunday 27 July 2014 at 02:00, the Al Shorouk tower, located in the Al Rimal neighbourhood, was hit by an aerial attack carried out by IDF F-16 military aircrafts. No prior warning was given. The attack led to the destruction of the tower, hosting the offices of the following companies:

- Qudsnet news agency, active since 2003;
- Gaza information centre, active since 1998 ;
- The TV channel Mar 'iyat Al Aqsa company, active since 2010 ;
- The TV channel Huna Al Auds, active since 2010 ;
- Palestinian society for media production, active since 1995 ;
- Radio station Saut Al Aqsa, active since 2004 ;
- Digital telecom society, active since 2010.

4.4.4.5 Sarayo Al Wadiya Factory (27.07.2014) [18]

On Sunday 27 July 2014 at 03:00, the Factory Sarayo Al Wadiya was shelled by an IDF aircraft. The attack, which led to the destruction of a great part of the factory, was carried out without any prior warning.

The factory Sarayo Al Wadiya located in Gaza city, Shuja'iya district, produced was specialised in food production (chips and juice) and was active since 1995.

4.4.4.6 Palestinian Society for Food and Manufacturing (27.07.2014) [19]

On Sunday 27 July 2014 in the morning, the Palestinian Society for Food Manufacturing was hit during an aerial attack carried out by IDF F-16 planes. The bombing destructed an important part of the factory. No prior warning was given before the attack was carried out. The Palestinian Society for Food Manufacturing was located in Gaza city, Shuja'iya district.

4.4.4.7 Fuyujin Society for Internet Services (27.07.2014) [20]

On Sunday 27 July 2014 in the morning, the offices of the Fuyujin Society for Internet Services (working licence No. 56313618 issued by Gaza Ministry of Telecommunications), located in the Al Wahda neighbourhood in Gaza city was hit by missile from F-16 IDF planes. The attack, which was carried out without any prior warning, led to the destruction of an important part of the office.

4.4.4.8 Speed Click Company (21.08.2014) [21]

On Thursday 21 August 2014 in the morning, the "Italian" tower, located in the Al Nasser neighbourhood of Gaza city, was hit by an attack carried out by IDF F-16 military aircrafts. The attack, carried out without any prior warning, led to the total destruction of the offices of the company "Speed click" for internet services, situated at the ground floor of the building.

4.4.4.9 Legal Analysis

As in the previous section, a singular legal analysis is provided for the attacks described above. In these cases, the attacks follow a similar pattern, with an aerial attack targeting an industrial site, launched mostly without prior warning and leading to the destruction of that site.

As outlined in the precedent section, IHL provides for the protection of civilian objects from the effect

of the conduct of hostilities, unless and for such time that they are used for military purposes, so that they then lose their civilian status and become military objectives. Military objectives are, as already mentioned, those that by nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralisation, in the circumstances ruling at the time, offer a definite military advantage (art. 52 API reflective of customary international law).

In the cases at hand, the attacks were carried out against industries devoted to the production of civilian goods, such as batteries, notebooks and food (biscuits, juice etc.). Furthermore, there is no information that these industries had been used, for example, to produce weapons or other military goods. Thus, the inherent nature of these firms, their purpose or use, remained of a “civilian” nature at the time of the attack.

Furthermore, it is also a questionable how their destruction could have led to an effective contribution to military action or military advantage. Their destruction, in fact, has a heavy toll on civilian lives with the huge losses in economic production and in sources of income. This cannot be considered as a proper “military advantage”.

On the contrary, due to its huge impact on civilians’ life, the destruction of industrial sites constitutes a reprisal against the civilian population of Gaza, already suffering from years of blockade of the Gaza Strip. Additionally, it is worth recalling that the destruction of the factories fits into a more general pattern of destruction of factories and industrial sites. According to reports, the economic damages caused by the Operation “Protective Edge” would be three times as high as the one of the Operation “Cast Lead” of 2009²⁴.

The attack of civilian objects as a reprisal against the civilian population is a violation of IHL (art. 52.1 API reflective of customary international law), therefore the destruction of the industries here reported amount to a war crime (Art. 8.2.a.4. 8.2.b.ii ICC Statute).

4.4.5 Other Civilian Buildings

4.4.5.1 Bisan City Tourist Village (14.08.14) [22]

On Sunday 14 August 2014 at 4:00, six F16 missiles targeted Bisan City Tourist Village causing large scale destruction. The Tourist Village, established in 2009 and licensed by the Ministry of Agriculture, is a 270-dunam-leisure park that includes restaurants, a wedding hall, gardens, playground, soccer fields, swimming pool and a 19-hectare zoo.

The attack, which came without a warning,



Devastation: A general view of the animal cages at the zoo, twisted and ripped from Israeli bombardment.

²⁴ The Guardian, *Gaza counts cost of war as more than 360 factories destroyed or damaged*, 27 August 2014, <http://www.theguardian.com/world/2014/aug/22/gaza-economic-cost-war-factories-destroyed> (accessed on 29 January 2015).

destroyed the 900-square-meter administrative buildings, a security building, the western gate, restaurants, the zoo, and the agricultural lands. A number of animals died too. In an interview to Alarabiya network²⁵, zookeeper Farid al-Hissi said: “Eight monkeys were killed, and an ostrich was killed too. The lion’s enclosure was wrecked and the zoo was completely destroyed. The Al-Bisan zoo was totally devastated.” The resort losses are estimated to approximately USD 1.4 million.

As in the cases of the destruction of industries, the attack, which was here also deliberately targeting the Bisan City Tourist Village, represents a serious violation of IHL. As there is no information that the Village was at the time used as a military base or for any other military purposes, it retained its civilian character. Its destruction therefore results from an illegal attack, as in violation of the IHL principle of distinction and represents as well a form of reprisal against the civilian population and Gaza’s economy.

Additionally, the attack also targeted to the zoo and led to the killing of animals. Attacks on the natural environment constitute a violation of the law of armed conflicts (art. 55 API reflective of customary international law).

4.4.5.2 Althafir Tower 4 (23.08.2014) [23]

On Saturday 23 August 2014 at 19:15, missiles from a reconnaissance aircraft (drone) followed by four F16 missiles targeted and destroyed the Althafir Tower 4, located in Alrimal, Safad Street. Established in 1997, it was comprised of eleven floors, and included 42 flats, occupied by 32 families. An average of 250 people lived in the tower all who have now been displaced.

The Israeli army informed the neighbouring buildings’ inhabitants of their intention to destroy the Althafir Tower five minutes before the tower was targeted. However, this does not provide enough time to evacuate such a large number of people

4.4.5.3 Al-Basha Tower (26.08.2014) [24]

On Tuesday 26 August 2014 at 16:00, F16 missiles targeted and destroyed the Al-Basha Tower, located in Al-Thalathini. Established in 2005, it was comprised of 13 floors and included 50 flats most of which served as offices for charities and engineering firms. The Israeli army broadcasted a warning 20 minutes before the assault. The tower guard was contacted as well as Al-Sh’ab Radio station that broadcasted their warning. Al-Aydi Al-Rahima Charity organisation that cares for the wounded and disabled had its offices in the tower. All their equipment was destroyed.

4.4.5.4 Legal Analysis

The last two cases, the attacks were carried out against civilian objects, about which there is no evidence that they contained military equipment or other devices determining their military character. Their destruction therefore violates the principle of distinction. Additionally, in the general situation of violence characterising the conflict in Gaza, the attack and destruction of these civilian objects is to be considered a reprisal against the civilian population, in violation of art. 52.1 API.

As for the warning provided, in these cases the duty to provide effective warnings seems to have been respected, at least in the second case, while in the first case it is difficult to see how a five minutes lapse of time would have allowed for the evacuation of the civilians in the building.

²⁵ Al Arabiya, *Animals caught in cross fire trapped at Gaza zoo*, <http://english.alarabiya.net/en/perspective/features/2014/08/16/Animals-caught-in-crossfire-trapped-at-Gaza-zoo.html> (accessed on 14 January 2015).

This report based on a submission to the United Nations Independent Commission of Inquiry on the 2014 Gaza Conflict presents a wide documentation of violations of International Humanitarian Law (IHL) by the Israeli Defence Force (IDF) during Operation “Protective Edge”. These violations resulted in the destruction of several civilian objects and the death of 280 civilian persons.

It is alarming to recall that more than half of these victims are women and children, with children themselves representing 46% of the total number of deaths reported. In addition, the large number of married adults killed reflects the large scale of orphans generated by this military operation. In particular, a result of the conflict is an increased number in orphaned children, now 1500 according to UN figures.

The majority of the deaths presented resulted from aerial attacks against civilian buildings or neighbourhoods, which entailed as well a massive destruction of civilian properties, leaving numbers of people displaced.

From the patterns described, it appears that a policy of house targeting was put in place during the operation, in complete disregard for the fundamental IHL principle requiring that civilian buildings be spared from attacks. At least, the attacks on the houses and civilian neighbourhoods were indiscriminate and disproportionate. It is worth recalling that Israel has a powerful and well-trained army, which has the means to carry out lawful attacks and does not need recurring to unlawful tactics of war that would endanger so heavily the life of civilians to achieve its military goals.

Furthermore, these attacks were carried out using drones, known to be high technology and high-precision devices. This leads us to conclude that such tactics of war were deliberately employed and show the recklessness if not the willingness to select tactics that are deadly for civilians, as shown by, among others, the doleful case of the four children targeted and killed while playing on the beach.

Documentation also shows that even schools and hospitals, which enjoy a special protection under IHL, have not been spared by IDF and caused a great number of deaths among children, patients and medical personnel, and displaced civilians who were sheltering within their premises. It is extremely worrisome to note that in all those instances the attacks were carried out deliberately, or, at the very least, with the knowledge that the buildings were serving pure civilian or humanitarian purposes.

All these deaths are clearly caused by a very serious disrespect for the very core principles of the norms and customs of the laws of war which demands that civilians must always be respected and protected from the effects of the conflict.

We also wish to recall that 94% of the victims reported received no warning, showing that no precaution was taken in order to protect civilians. On the contrary, 69% of the attacks were carried out between 19:00-7:00, when people are usually at home. In one reported case, the IDF resorted to the use of the roof-knocking technique as a warning, a tactic that had already been deemed unlawful by the Fact Finding Mission in Gaza in 2009.

Due to the manner IDF attacks were carried out, there was no safe place to shelter in the Gaza strip. Additionally, the conflict targeted Gaza’s economic activities, through attacks directed at industries and firms producing civilian goods and even food products. Already suffering from years of blockade, Gaza’s economy was severely hit. Attacks to firms cannot be interpreted as being attacks on military objectives or attacks bringing about any kind of military advantage and therefore constitute reprisals against the civilian population.

Completely irrespective of international law, Israel has committed serious violations, which amount to war crimes and even to crimes against humanity.



CONCLUSION

The Operation “Protective Edge” follows two other major offensives in six years. Despite the calls from the United Nations and the recommendations of the 2009 UN Fact Finding Commission and repeated demands for investigations into crimes committed in the Occupied Palestinians Territories, no step has been taken to ensure bringing the perpetrators to justice.

In the absence of an efficient and independent Israeli mechanism for conducting inquiries that meet international standards, as highlighted by several human rights organisations, it is necessary that international instances respond to the outcry for justice.

