



**Submission to the Human Rights Committee Regarding Israel's Third  
Periodic Report, 99<sup>th</sup> Session, July 2010**

# Contents

.....	1
Submission to the Human Rights Committee Regarding Israel's Third Periodic Report, 99th Session, July 2010.....	1
Contents.....	2
Right to privacy, right to non-discrimination (arts. 17, 26).....	3
House demolitions, with regard to non-Arab citizens of Israel in the West Bank, including East Jerusalem (question 4).....	3
Right to life (art. 6).....	5
Information on the status of investigations and prosecutions initiated by the State party on alleged violations of international law resulting from the conduct of Israel Defense Forces during Operation Cast Lead (question 10(b)).....	5
Information on allegations regarding direct targeting of civilians and civilian objects with lethal outcome despite the absence of any justifiable military objective during Operation Cast Lead (question 11(a)).....	7
The use of Palestinian civilians by the Israeli military forces as human shields (question 11 (b)).....	11
The refusal of Israeli forces to allow the evacuation of the wounded and permit access to ambulances (question 11 (c)).....	12
Right to liberty and security of person and treatment of persons deprived of their liberty (arts. 9 and 10) .....	13
The administrative detention of Palestinians in the OPT, and information on the rules and modalities governing administrative detention (question 16). .....	13
Rights of the child and equality before the law (arts. 24 and 26).....	14
Reports of attacks against educational facilities and schools in the Occupied Palestinian Territories by the Israeli military and settlers (question 29 (a)).....	15
Restrictions on school development (question 29 (b)).....	15

## Right to privacy, right to non-discrimination (arts. 17, 26)

### House demolitions, with regard to non-Arab citizens of Israel in the West Bank, including East Jerusalem (question 4).

Israel's policy of demolishing the homes of Palestinian residents of the West Bank, including East Jerusalem -- often citing the absence of difficult-to-obtain building permits -- while allowing the construction and growth of nearby settlements, is discriminatory. Israel denied 94 percent of Palestinian building permit applications in the West Bank between 2000 and 2007, according to Peace Now, and there are approximately 3,000 Israeli demolition orders outstanding in the West Bank, not including East Jerusalem, according to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA).<sup>1</sup> Routine denial of building permits, coupled with repeated home demolitions, prevent Palestinian residents from enjoying the right not to be subjected to arbitrary or unlawful state interference with one's home and the right to adequate housing.

1. Israeli authorities destroyed the homes and property -- including animal pens and traditional, underground ovens -- of 18 Palestinian shepherd families in the community of al-Ras al-Ahmar, in the northern Jordan Valley, on June 4, 2009, displacing approximately 130 people. Israeli soldiers also confiscated a tractor, a trailer, and a portable water tank that residents used to truck in water, witnesses said.

Israeli authorities had ordered residents to evacuate on May 31 because they were living in a "closed military zone." Under an Israeli military order from 1970, the government may evict persons living in a "closed military zone" without any judicial or administrative procedures.<sup>2</sup> Section 90 of the order states that "permanent residents" can remain in an area later designated as closed, and that eviction orders cannot change their status as permanent residents. However, the Israeli High Court of Justice has ruled that because the shepherds in the area are pastoralists, the term "permanent residents" does not apply to them.<sup>3</sup>

According to the District Coordination Liaison Office (DCL) of the Israeli Civil Administration, the eviction orders were issued to protect the residents from ammunition or military exercises. Israeli authorities had declared the area a closed military zone years ago and could have issued eviction orders at any time. The liaison office did not explain the reason for issuing the orders long after the area was declared closed, but this practice is not uncommon, according to Israeli and Palestinian nongovernmental organizations. According to Bimkom, an Israeli nongovernmental organization that specializes in planning and zoning issues, Palestinians in the West Bank commonly build homes without first applying for building permits because the application process is expensive, time-consuming, and usually unsuccessful.<sup>4</sup>

Al-Ras al-Ahmar and the nearby Palestinian community of al-Hadidiyya date from at least the 1950s. The Israeli settlement of Ro'i was built between the two villages in 1978. The two communities and Ro'i lie within "Area C" of the West Bank, over which Israel retains near-total control under the Oslo Agreements of 1995. Three residents whose homes and property were destroyed said they had moved to al-Ras al-Ahmar after being forcibly displaced when Israeli authorities repeatedly demolished their property in the nearby community of al-Hadidiyya. Israeli authorities demolished homes in al-Hadidiyya in February and March 2008, displacing about 60 people in all. Some

---

<sup>1</sup>Peace Now, "Area C: Palestinian Construction and Demolition Stats - February 2008," (data provided to Israeli member of Parliament Chaim Oron, by the Ministry of Defense, in response to a parliamentary query he placed), <http://www.peacenow.org.il/site/en/peace.asp?pi=61&fid=495&docid=3159>, accessed July 8, 2010; OCHA, *The Planning Crisis in East Jerusalem*, April 2009, p. 11, [http://www.ochaopt.org/documents/ocha\\_opt\\_planning\\_crisis\\_east\\_jerusalem\\_april\\_2009\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_planning_crisis_east_jerusalem_april_2009_english.pdf), accessed July 8, 2010.

<sup>2</sup> Military Order No. 378, Concerning Security Regulations, April 20, 1970.

<sup>3</sup> Human Rights Watch interview with attorney Tawfiq Jabarin, June 5, 2009.

<sup>4</sup> Bimkom, *The Prohibited Zone*, June 2008, pp. 10-11, <http://eng.bimkom.org/Index.asp?ArticleID=137&CategoryID=125>.

of the displaced families returned to the area later, but due to repeated evictions over the years, more than a dozen households from al-Hadidiyya have been permanently displaced, according to OCHA.<sup>5</sup>

2. During the week beginning October 27, 2009, Jerusalem municipal authorities used bulldozers to demolish five residences in East Jerusalem, displacing 57 Palestinian residents, including many children. In several cases, Israeli authorities did not allow the residents of the homes time to remove their furniture or other belongings before bulldozers demolished the building.

Israeli authorities justified destroying the homes primarily on the grounds that the owners lacked building permits.<sup>6</sup> Israel's destruction of Palestinians' private property violates international humanitarian law protections for private property in occupied territory.<sup>7</sup> Moreover, a UN report published in April 2009 found that it is extremely difficult for Palestinian residents to obtain such permits under Israeli law. The UN report estimated that roughly 60,000 Palestinians in East Jerusalem currently live in buildings that the Israeli government has designated illegal.<sup>8</sup>

A December 2008 report by the European Union found that Israel was "actively pursuing the illegal annexation of East Jerusalem" by means including the construction of Jewish-only settlements and demolitions of Palestinian houses.<sup>9</sup> The EU report concluded that Israel's housing policies in East Jerusalem unlawfully discriminate against Palestinian residents. Like Israeli citizens, Palestinian residents of East Jerusalem may obtain building permits only for buildings in areas zoned for construction. The Palestinian population makes up over 60 percent of East Jerusalem's population, but the Israeli government has zoned only 12 percent for Palestinian construction, according to the EU report.<sup>10</sup> Even in this small zoned area, many Palestinians were unable or could not afford to complete the application process for building permits, which is complicated and expensive. In contrast, Israel unlawfully expropriated 35 percent of East Jerusalem for the construction of Jewish settlements, for which building permits are much easier to obtain. Since November 2007, Israel approved building permits for 4,000 housing units for Jewish settlers in East Jerusalem, as opposed to fewer than 400 building permits for Palestinian residents.<sup>11</sup> Government policy, as stated in the Local Outline Plan for Jerusalem 2000, approved by Jerusalem's Local Committee for Planning and Building in 2006, calls for a ratio of 70 percent Jews to 30 percent Arabs in the Jerusalem municipality, including annexed parts of the West Bank.<sup>12</sup>

---

<sup>5</sup> Information on file with Human Rights Watch.

<sup>6</sup> According to the Jerusalem municipality's website, "The Municipality of Jerusalem demolishes buildings or parts of buildings for reasons of urban planning, not for security matters . . . . Municipal policy is to issue demolition orders only where illegal buildings are not yet occupied and where they interfere with plans for public facilities such as schools or roads, or with the city's historical heritage." Jerusalem Municipality, "Why do you demolish Arab houses?," [http://www.jerusalem.muni.il/jer\\_sys/publish/HtmlFiles/1616/results\\_pub\\_id=6716.html](http://www.jerusalem.muni.il/jer_sys/publish/HtmlFiles/1616/results_pub_id=6716.html), accessed July 8, 2010.

<sup>7</sup> Fourth Geneva Convention, art. 53. East Jerusalem includes more than 70 square kilometers of the West Bank that Israel annexed to its territory in 1967, but is considered to be occupied territory under international law.

<sup>8</sup> OCHA, *The Planning Crisis in East Jerusalem*, p. 2.

<sup>9</sup> *EU Heads of Mission Report on East Jerusalem*, November 23, 2009, p. 1, on file with Human Rights Watch.

<sup>10</sup> *EU Heads of Mission Report on East Jerusalem*, p. 7.

<sup>11</sup> Ir Amim, "Negotiations towards an Accord on Jerusalem: Declarations vs. Actions," April 2008, p. 5, [http://www.ir-amim.org.il/eng/\\_Uploads/dbsAttachedFiles/MonitoringReportEng.doc](http://www.ir-amim.org.il/eng/_Uploads/dbsAttachedFiles/MonitoringReportEng.doc); OCHA, *The Planning Crisis in East Jerusalem*, p. 12.

<sup>12</sup> The Fourth Geneva Convention prohibits the occupying power from transferring its own population to the occupied territory.

## Right to life (art. 6)

### Information on the status of investigations and prosecutions initiated by the State party on alleged violations of international law resulting from the conduct of Israel Defense Forces during Operation Cast Lead (question 10(b)).

Between December 27, 2008 and January 18, 2009, Israel's "Operation Cast Lead" in Gaza killed more than 750 Palestinian civilians, according to B'Tselem, and wounded many more.<sup>13</sup> Some Israeli attacks that killed civilians were indiscriminate or disproportionate, or at times seemingly deliberate, in violation of the laws of war. Israeli forces also extensively destroyed civilian objects in Gaza, including homes, agricultural land and factories, without a lawful military reason.<sup>14</sup>

In Israel, rocket fire from Hamas and other Palestinian armed groups killed three civilians and wounded several dozen, and placed 800,000 civilians within rocket range. The absence of Israeli military forces in the areas struck and statements by Hamas leaders supporting the attacks are evidence of an intent to strike Israeli civilians and civilian objects. Even if military objectives had been present, the rockets were fired indiscriminately into populated areas. In addition, Hamas and other armed groups placed Palestinian civilians unnecessarily at risk from Israeli counter-attack by launching rockets from densely populated areas in Gaza.<sup>15</sup> Masked armed men apparently associated with Palestinian armed groups unlawfully killed, maimed by shooting, beat and otherwise tortured or abused scores of alleged collaborators and members of Fatah during and after the conflict.<sup>16</sup>

In Israel, military authorities conducted inquiries into roughly 150 incidents in Gaza; they have not provided a full list of the cases. Approximately 90 of the 150 cases were the subject of what the military calls an "operational debriefing" – *tahkir mivza'i* in Hebrew – and another 30 incidents were subjected to "command investigations" that are based on operational debriefings. Operational debriefings are after-action reports, not criminal investigations, in which an officer – normally in the chain of command – interviews the soldiers involved, with no testimony from victims or witnesses. The debriefings may lead to disciplinary measures or criminal investigations, but they are not a substitute for impartial and thorough investigations into laws-of-war violations. The decisions of the Military Advocate General are subject to review by the Attorney General and the Israeli Supreme Court, but according to Israeli human rights organizations, such reviews rarely take place.

The Military Advocate General referred approximately 50 of the total of 150 cases for a more serious military police investigation, in which Israel Defense Force (IDF) investigators summoned witnesses from Gaza to give statements and present evidence. The IDF has not released a list of these cases. On July 6, the IDF announced that the Military Advocate General "has now concluded his examination" into "the majority of incidents" of alleged IDF legal violations discussed by the report of the UN Fact Finding Mission on the Gaza Conflict (the Goldstone Report).<sup>17</sup> The IDF has not published an overall list of the completed and ongoing investigations.

As of July 6, 2010, only one case had resulted in a conviction – of a soldier who stole a credit card. Three other soldiers had gone to trial. In the first case, two soldiers were charged with exceeding authority in a way to cause harm by allegedly

<sup>13</sup> B'Tselem, "Fatalities during operation 'Cast Lead'," [http://www.btselem.org/english/statistics/casualties.asp?sD=27&sM=12&sY=2008&eD=18&eM=01&eY=2009&filterby=event&oferet\\_stat=during](http://www.btselem.org/english/statistics/casualties.asp?sD=27&sM=12&sY=2008&eD=18&eM=01&eY=2009&filterby=event&oferet_stat=during).

<sup>14</sup> The following draws on Human Rights Watch, *Turning A Blind Eye*, <http://www.hrw.org/node/89575>.

<sup>15</sup> Human Rights Watch, *Rockets from Gaza*, <http://www.hrw.org/en/reports/2009/08/06/rockets-gaza-0>.

<sup>16</sup> Human Rights Watch, *Under Cover of War*, <http://www.hrw.org/node/82366>.

<sup>17</sup> "IDF Military Advocate General Takes Disciplinary Action, Indicts Soldiers Following Investigations into Incidents during Operation Cast Lead," July 6, 2010, <http://dover.idf.il/IDF/English/Press+Releases/10/07/0601.htm>.

forcing a nine-year-old Palestinian boy to open bags that they suspected of being booby-trapped. In the second case, a soldier with the rank of staff sergeant from the Givati Brigade, who was serving as a “designated marksman,” was indicted for manslaughter for the unlawful killing of Rayya and Majida Abu Hajjaj, two women killed while attempting to leave the Johr al-Dik area in eastern Gaza in a group whose members were holding white flags to signal their civilian status.<sup>18</sup>

Five soldiers and commanders have faced disciplinary hearings, but the IDF has provided only partial information on the circumstances. In one case, a colonel and brigadier general received notes of reprimand for firing “several” high-explosive artillery shells that hit the United Nations Relief and Works Agency (UNRWA) headquarters in central Gaza City, despite dozens of phone calls from UN officials asking that the shelling stop. The disciplinary action did not investigate the commanders’ responsibility for the firing of numerous white-phosphorus artillery shells that hit the UN compound at the same time, which burned down several warehouses of humanitarian supplies and threatened to ignite several fuel tanker-trucks. Two other disciplinary cases involved a soldier who shot without authorization at a UN convoy and an incident of property destruction that involved uprooting vegetation. In the fifth case, an IDF officer who ordered an attack that killed civilians at the al-Maqdeme mosque was disciplined for failing to exercise “appropriate judgment” and prohibited from “similar positions of command in the future.” No criminal charges were filed against him.

The IDF opened “command investigations” into five types of alleged violations during the Gaza operation: attacks on UN facilities; attacks on medical crews and facilities; harm to civilians not involved in hostilities; the destruction of civilian structures; and the use of white phosphorous munitions. Based on operational debriefings regarding 30 individual incidents as well as other reviews, the IDF closed these command investigations and concluded in April 2009 that its forces had “operated in accordance with international law” throughout the fighting and that “a very small number” of “unavoidable” incidents occurred due to “intelligence or operational errors.” To correct these, the IDF Chief of Staff, Lt. Gen. Gabi Ashkenazi, reportedly ordered improvements in “certain command operations,” but the military has provided no details.

The IDF’s conclusions on harm to civilians not involved in hostilities, the destruction of civilian structures, and on the manner white phosphorus munitions were used contradicted the findings of Human Rights Watch, which documented 53 civilian deaths in 19 incidents and the destruction of 189 homes and other civilian buildings in another 12 cases. In these cases, Israeli forces appeared to have violated the laws of war, at times apparently as the result of policy decisions.

In November 2009, the IDF opened a sixth command investigation into three cases raised in the UN fact-finding report. One of these cases—the alleged killing of more than 20 members of the al-Samouni family in the Zeitoun neighborhood of Gaza City on January 5—was known since January 7, 2009, when the International Committee of the Red Cross publicly criticized the IDF for denying medical access to the wounded and dead. On June 6, 2010, the IDF stated that the Military Advocate General had ordered a “military police criminal investigation into the circumstances of the incident,” the results of which would be passed on to him.

The military’s debriefings and self-investigations notwithstanding, the Israeli government has failed to conduct adequate investigations into important policy decisions by military and political leaders that may have increased civilian deaths. These include:

- Targeting of Hamas’s political infrastructure;
- Targeting of Gaza police that were not taking direct part in hostilities;
- Resumption of heavy artillery (155mm) use in Gaza after a two-year de facto moratorium imposed because of civilian casualties;
- Use of artillery-fired white phosphorus munitions in densely populated areas of Gaza;
- Expansive rules of engagement for aerial drone operators and ground forces.

---

<sup>18</sup> Human Rights Watch reported on the killings of Rayya and Majida Abu Hajjaj, from the Juhr al-Dik area, whose case is discussed below.

One underlying problem cited by Israeli human rights organizations is the limited independence of the office of the IDF Military Advocate General (MAG), which plays a central role in military investigations. Prior to Operation Cast Lead in Gaza, the MAG was helping set policy, including targeting and weapons choices, and after the operation it was investigating allegedly unlawful attacks. The IDF says these two functions are distinct and military prosecutions proceed independently from the Chief of Staff.

Military investigations into laws-of-war violations are not incompatible with international standards for prompt, impartial and thorough investigations. But, as Human Rights Watch documented previously, the IDF has a poor record of holding accountable the soldiers and commanders implicated in violations of international human rights and humanitarian law against Palestinians in Gaza and the West Bank.<sup>19</sup> According to Israeli human rights groups, the numbers of criminal investigations, prosecutions and convictions of Israeli soldiers for violations against Palestinians have all dropped since 2000, despite the large number of allegedly unlawful deaths.<sup>20</sup>

Concerns with the thoroughness and impartiality of IDF investigations have led Israeli human rights groups to call for an independent inquiry into the Gaza operation. The government has refused. Instead, senior officials contend that the IDF did everything possible to minimize civilian casualties and that Hamas is to blame for the high number of civilian deaths because they fought from amidst the civilian population and used civilians as human shields. Hamas at times placed civilians in danger by fighting from densely populated areas, but in the 31 incidents Human Rights Watch documented, resulting in 53 civilian deaths and the destruction of 189 civilian structures, Palestinian fighters were not in the area at the time of the Israeli attack.

Instead of implementing Israel's legal obligation to conduct impartial investigations, Prime Minister Benjamin Netanyahu has called for revising the laws of war to allow states more latitude when addressing conflicts with armed groups in populated areas.

In Gaza, Hamas has taken no meaningful steps to investigate and punish those Palestinian fighters and commanders who violated the laws of war.

Human Rights Watch has also expressed concerns with the inadequacy of the mandate of the governmental panel created to investigate Israeli forces' interception at sea of the *Mavi Marmara* on May 31, 2010, which led to the killing of nine people on board. The panel is not empowered to subpoena evidence, and is specifically required to obtain evidence about the actions of Israeli security forces by requesting summaries of operational debriefings from the IDF. By prohibiting the panel – which is not a full commission of inquiry under Israeli law – from questioning the Israeli security personnel who were directly involved, but directing it instead to rely on summaries of the IDF's own after-action reports, the Israeli government cast doubt on the panel's ability to meet international standards of thoroughness and impartiality. As the result of a legal challenge by an Israeli peace group, Gush Shalom, and a request by the chair of the panel, the Israeli government is reportedly considering empowering the panel to subpoena witnesses.<sup>21</sup>

## **Information on allegations regarding direct targeting of civilians and civilian objects with lethal outcome despite the absence of any justifiable military objective during Operation Cast Lead (question 11(a)).**

### **i. White Flag Deaths**

---

<sup>19</sup> Human Rights Watch, *Promoting Impunity*, 2005, <http://www.hrw.org/en/reports/2005/06/21/promoting-impunity-0>.

<sup>20</sup> From the outbreak of the second intifada in October 2000 until December 26, 2009, Yesh Din found that of 1,805 investigations by military police into alleged IDF abuses of Palestinian civilians, only 105, or 5.8 percent, resulted in indictments being filed. Thirteen of these indictments were for alleged unlawful killing of Palestinian civilians, although more than 2000 Palestinian civilians were killed during the time period (not including Operation Cast Lead); only 5 soldiers were prosecuted for unlawful killings. Yesh Din, "IDF Investigations of IDF offenses against Palestinian," <http://www.yesh-din.org/sys/images/File/2000-2009%20Investigations%20and%20Indictments%20-%20Datashet,%20Feb%202010%20%5BEnglish%5D.pdf>.

<sup>21</sup> Barak Ravid, "Government expands authority of Gaza flotilla probe commission," Haaretz, July 4, 2010, <http://www.haaretz.com/news/diplomacy-defense/government-expands-authority-of-gaza-flotilla-probe-commission-1.299955>.

According to Human Rights Watch investigations, during Operation Cast Lead, Israeli forces killed at least eleven people, including five women and six children, while they were holding white flags or were in groups with persons holding white flags.<sup>22</sup> This number represents only those specific investigations conducted by Human Rights Watch, and does not necessarily account for all “white flag” events. The cases investigated by Human Rights Watch are as follows:

1. On January 4, 2009, Israeli forces in multiple attacks killed seven and wounded six members of the Abu Halima family, from Siyafa village, near Beit Lahiya in the northern Gaza Strip. In two of these deaths, IDF soldiers shot at family members who were trying to head for safety while carrying white flags or waving their hands in the air to show they had no weapons. On that day, 14 family members sheltered in the home of Sa’dallah and Sabah Abu Halima in the village of Siyafa. According to witnesses, an Israeli artillery shell containing white phosphorus directly hit their house at around 4 p.m., killing four members of the family and wounding four. Israeli forces then fired on the family members as they tried to evacuate the wounded and dead from the white phosphorus attack to the hospital on tractors and a pickup truck, killing two cousins, Muhammad, 16, and Mattar, 17, and wounding Ghalya Abu Halima, 52, Mahmud Abu Halima, 21, Mattar Abu Halima, 85, and Nabila Abu Halima, 38.
2. On January 4 in ‘Atatra, to the north of Gaza city, Israeli soldiers shot two women while they carried white flags. One of the women, Ibtisam al Qanu’, 40, the mother of four boys and three girls, was killed. At around 8:30 a.m. on January 4, an IDF bulldozer pulled up at the al-Qanu’ family’s house in ‘Atatra and started to demolish its support pillars. About 40 members of the family were sheltering inside at the time. At the same time, IDF gunfire began to strike the house, coming from a house about 100 meters to the north. Those seeking refuge ran to a more sheltered room upstairs. Around 11 a.m., a bulldozer demolished one of the walls on the ground floor, strongly shaking the house. Ibtisam and Zakiya al-Qanu’, 55, decided to go downstairs holding white flags to tell the soldiers that civilians were sheltering inside. According to witnesses, when they opened the door, a sniper fired at them from a house about 100 meters away, fatally shooting Ibtisam and grazing Zakiya with a bullet. Zakiya tried to drag Ibtisam back inside the house, but she was pinned down by gunfire. The al-Qanu’ family called the Palestinian Red Crescent and International Committee of the Red Cross to send an ambulance for Ibtisam, but no ambulance could come due to lack of coordination with the IDF.
3. In the mid-morning of January 4 Israeli soldiers entered Na’im al-Marri’s home in ‘Atatra, to the north of Gaza city. The soldiers ordered Na’im, his son Radwan, their wives, and Radwan’s six children to move next door to the home of a relative, Rafiq al-Marri, 43. There the soldiers confined the group—about 19 people in total—in one central room. On the morning of January 5, the soldiers told the group that they could leave the area. Nineteen members of the family set out on foot for the nearby UNRWA school, where displaced persons were staying. They gave the children white flags, made from scarves that they attached to sticks. Along the way, Na’im’s five-year-old granddaughter, Nada al-Marri, was shot in the back of the head and killed, apparently by an Israeli soldier.
4. Around 12:30 p.m. on January 4, in the Juhr al-Dik area south of Gaza City near the armistice line with Israel, Israeli troops opened fire on a group of 28 Palestinian civilians who were trying to evacuate their homes after hearing IDF orders on the radio to leave the area. The shots killed Rayya Abu Hajjaj, 56, and her daughter, Majida Abu Hajjaj, 35, who was waving a white flag. As discussed above, the IDF military police have charged an unnamed staff sergeant with manslaughter for the killings.
5. On the afternoon of January 5, a large group from three families was walking north on Saladin Road in the Zeitoun neighborhood of southeastern Gaza City, trying to leave the area. Ibrahim Mu’in Juha, age 14, was waving a small white cloth in his hand, and Walid Abu Zor, one of the family’s neighbors walking with the group, had tied a large white cloth to a three-meter long stick. An Israeli soldier, apparently in a house, fired two shots, hitting the ground and then striking Ibrahim, who died the next day. Fighting had been ongoing on January 3, but by the morning of January 4 Israeli forces had full control of the area and the fighting had stopped.
6. On January 7 in eastern Jabalya, in the northern Gaza strip, two women and three children from the ‘Abd Rabbo family were standing for a few minutes outside their home—at least three of them holding pieces of white cloth—when an Israeli

---

<sup>22</sup> Human Rights Watch, *WhiteFlagDeaths*, August 2010, <http://www.hrw.org/en/reports/2009/08/13/white-flag-deaths-0>.



soldier opened fire, killing sisters Su'ad and Amal, aged 2 and 7, and wounding their grandmother Su'ad, 54, and a third sister, Samar, 4. According to family members, around noon the family heard the tank outside their house and then a soldier on a megaphone calling on them to come outside. Afraid to send out any men, two women and three female children gathered at the door, at least three of them holding pieces of white cloth. They stepped outside and saw an Israeli tank about 10 meters away with its turret pointed at the house. A soldier opened fire when five members of the family were on the front steps: Su'ad 'Abd Rabbo (mother of Khaled 'Abd Rabbo), Khaled's wife, Kawthar, 26, and their three girls, Su'ad, Samar, and Amal. According to Human Rights Watch investigations, major fighting in the area of the 'Abd Rabbo family's house had stopped by the time the shootings took place. After the shooting, when the family managed to reach the Palestinian Red Crescent Society, they were told that an ambulance could not come due to lack of coordination with the IDF, which was required for ambulances to access any areas where soldiers were present. About two hours later, without medical care, Amal died.

7. On January 13, around 7:30 a.m., Rawiya al-Najjar, 47, led a group of about 15 women out of the neighborhood where they lived in Khuza'a village, east of Khan Yunis, following orders from Israeli soldiers in tanks and D9 militarized bulldozers on the edge of the neighborhood to walk to the center of the village. As she walked with a white flag, with no fighting in the area and the IDF in apparent control of the neighborhood after three days of shelling, an Israeli soldier opened fire at least once, striking her in the head. A second shot hit Jasmin al-Najjar, 23, as the women tried to pull Rawiya to safety. A member of the same family, Mahmoud al-Najjar, a 57-year-old farmer, also carrying a white flag, was shot and killed by an Israeli soldier about one hour later as he tried to retrieve the body.

Central to the law regulating conduct of hostilities is the principle of distinction, which requires parties to a conflict to distinguish at all times between combatants and civilians. Attacks may be directed only against combatants and other military objectives; civilians may not be the target of attack. The use of white flags as an act of surrender and request for protection is recognized in the Geneva Conventions, and an attack on such persons is prohibited, unless they are actively participating in hostilities.

## **ii. Attacks from Drone-launched Missiles**

During the fighting in Gaza the IDF killed dozens of Palestinian civilians with one of the most precise weapons in its arsenal: missiles launched from drones, formally called unmanned combat aerial vehicles (UCAVs). The accuracy and concentrated blast radius of drone-launched missiles can reduce civilian casualties, but in Gaza, Israel's targeting choices led to the loss of many civilian lives.

Human Rights Watch investigated six Israeli drone strikes, which in total killed 29 civilians, eight of them children.<sup>23</sup> Human Rights Watch determined that in each of these attacks the Israeli military directed their strikes on individuals who were all found to be civilians. In none of the cases did Human Rights Watch find evidence that Palestinian fighters were present in the immediate area of the attack at the time. None of the targets were moving quickly or leaving the area, so the drone operators would have had time to determine whether they were observing civilians or combatants, and to hold fire if they were not able to tell the difference.

In the incidents investigated by Human Rights Watch, Israeli forces either failed to take all feasible precautions to verify that the targets were combatants, apparently setting an unacceptably low threshold for conducting attacks, or they failed to distinguish between combatants and civilians and to target only the former. As a result, these attacks violated international humanitarian law.

The technological capabilities of drones and drone-launched missiles make the violations even more egregious. Israeli drones are equipped with high-resolution cameras and advanced sensors, which allow drone operators to view objects on the ground in

---

<sup>23</sup> Human Rights Watch, *Precisely Wrong*, <http://www.hrw.org/en/reports/2009/06/30/precisely-wrong-0>. The total number of Gazan civilians killed by drone-launched missiles remains unclear. Israeli and Palestinian human rights organizations—B'Tselem, the Palestinian Centre for Human Rights, and the Al-Mezan Center for Human Rights—together reported 42 drone attacks that killed 87 civilians.

detail during both day and night. One Israeli drone operator who flew missions in Gaza during the conflict told an Israeli military journal that he was able to discern clothing colors, a large radio, and a weapon. In addition, the missile launched from a drone carries its own cameras that allow the operator to observe the target from the moment of firing to impact. If doubts arise about a target after a missile has been launched, the drone operator can remotely divert the weapon elsewhere. With these advanced visual capabilities, drone operators who exercised the proper degree of care should have been able to tell the difference between legitimate military targets and civilians. In all six attacks investigated by Human Rights Watch, the killing occurred far from areas where fighting between Israeli and Palestinian forces was taking place, and multiple witnesses said that no Palestinian fighters were in the vicinity at the time.

The cases of drone attacks that killed civilians Human Rights Watch documented are as follows:

1. In a daytime attack on December 27, the first day of the Israeli offensive, an IDF drone-launched missile hit a group of college students who were waiting for a bus in central Gaza City, across the street from the headquarters of UNRWA, killing nine of them, including two women, in addition to three other civilian bystanders. The IDF has failed to explain why it targeted the group on a crowded central street with no known military activity in the area at the time.<sup>24</sup>
2. On December 29, a drone-launched missile struck a truck outside a metal shop east of Jabalya refugee camp in northern Gaza, killing nine civilians, four of them children. According to family members, they had gone to the family's metal shop at around 4 p.m. to check on the building and equipment after learning that the IDF had bombed the adjacent building, which was the home of a Hamas member. They decided to move oxygen canisters from the shop, they said, because the rear wall had been destroyed and they feared looters. After the attack, the IDF claimed that it had "struck a Hamas vehicle loaded with dozens of Grad type missiles" and released video footage apparently taken by the drone showing a group of at least a dozen individuals casually loading cylindrical objects crossways onto an open truck immediately before the missile struck. The IDF video does not show any secondary explosions, which would have indicated the presence of weapons-grade explosives or propellants at the site. Nor was the destruction at the site consistent with the presence of rockets. Had the truck been carrying Grad rockets with warheads, the truck and adjacent buildings would have been destroyed. Even without warheads, the propellant in the rockets would have destroyed the truck. In addition, Israeli human rights group B'Tselem took photos of the site that showed burned oxygen canisters on the ground. Visible in the photographs are the telltale cubic fragmentation holes in the truck, which indicate a drone-launched Spike missile. The photographs show no indication of Grads or other rockets at the site.<sup>25</sup>

The remaining three drone attacks investigated by Human Rights Watch struck children, ranging in age from eight to sixteen, who were atop rooftops in residential neighborhoods, killing six and wounding six. In all cases they appeared to be playing. Human Rights Watch found no evidence that the children were participating in hostilities, such as by acting as artillery spotters for Hamas, relaying IDF troop locations for attack, or trying to launch a rocket from the roof. Human Rights Watch also found no evidence of militant activity in these areas, including rooftop rocket fire, at the time of the attacks.

3. On January 4, the second day of Israel's ground offensive, at around 10:30 a.m., an IDF drone launched a missile at two boys playing on the rooftop of a two-story home in downtown Gaza City. According to residents, the site was at least five kilometers from any fighting at the time between the IDF and Palestinian armed groups. IDF statements and media reports also report no fighting in that area at that time, and Israeli forces did not enter central Gaza City until later in the ground offensive. Because the house is surrounded by taller buildings in the center of Gaza City, it is a highly unlikely site for firing rockets, and it would be a poor location for artillery spotting or reconnaissance. Those killed were Mahmud Khaled 'Alayyan al- Masharawi, 12 , and Ahmad Khader Diyab Subayh, 17.

<sup>24</sup> The nine students killed in the attack were: Ahmad Samih Shehadeh al-Halabi, 19, from Rafah; Baha Samir Abu Zuhri, 19, Rafah; Adham Hamdi al-'Adani, 19, Deir al-Balah; Yousef Taysir Sha'ban, 19, Rafah; Shaban 'Adil Hunaif, 17, Rafah; Ne'ma Ali al-Mughari, 18, Rafah (female); Wafa Marwan al-Dasuqi, 18, Khan Yunis (female); Mahmud Majed Abu Tyour, 18, Rafah; and Ali Marwan Abu Rabi', 18, Gaza City. The other three civilians killed were: Hisham Nahru Tal'at al-Rayyis, 24; 'Allam Nahru Tal'at al-Rayyis, 18; and 'Abdallah Munzer Jawdat al-Rayyis, 20.

<sup>25</sup> Those killed in the attack were: 'Imad Ahmad Muhammad Samur, 32; Ashraf Sayed Khamis al-Dabbagh, 28; Ahmad Ibrahim Kheleh, 18; Muhammad Majid Ibrahim Ka'bar, 17; Rami Sa'di Dib Ghabayen, 23; Bilal Suhail Dib Ghabayen, 19 (died later from his wounds on January 2, 2009); Mahmud Nabil Dib Ghabayen, 13; Wissam Akram Rabi' 'Eid, 13; and Muhammad Basil Mahmoud Madi, 17.

4. On January 4, at around 3 p.m., an IDF drone launched a missile at six children apparently playing on the roof of the al-Habbash family home in the al-Sha'f area of Gaza City. Two children were killed: Shaza al-'Abd Muhammad al-Habbash, 10, and Isra Qusai Muhammad al-Habbash, 12. Three other children were wounded, the legs of two of them amputated.<sup>26</sup> Blast patterns on the roof of the house, perforations in the victims' clothes, and photographs of their injuries were all consistent with the cubic fragments of a drone-launched missile. It remains unclear why the IDF targeted the al-Habbashes' roof, when the video surveillance on the drones should have allowed the drone operator to identify the six children and their activities.
5. On January 5, around noon, an IDF drone launched a missile at members of the 'Allaw family who were on the roof of their home. The missile killed ten-year-old Mu'min Mahmoud Talal 'Allaw, and injured his brother Muhammed, 13, and sister, Iman, 8. The mother of the slain boy told Human Rights Watch: "We were just sitting on the roof. It was cool and there was good weather. After five minutes I told my son I will just sit in the sun and went to the other end of the roof and sat down. Suddenly there was a powerful explosion. The roof was covered in white dust and smoke. I saw Mu'min on the bicycle. His legs were crushed, his chest had tiny small holes in it and blood poured from them."

## The use of Palestinian civilians by the Israeli military forces as human shields (question 11 (b)).

In three cases documented by Human Rights Watch, beginning January 5, 2009 the IDF detained Palestinian men from the Izbt Abd Rabbo neighborhood of Jabalya, to the north east of Gaza city, and forced them to perform dangerous tasks of a military nature, such as searching Palestinian homes for Palestinian fighters or explosives. Deliberately using civilians to deter attacks on a military target is considered "human shielding." The use of civilians as human shields or to engage in work for military purposes violates international humanitarian law.<sup>27</sup>

1. Majdi 'Abd Rabbo told Human Rights Watch that the IDF detained him for two days, starting on January 5, and forced him to act as a messenger between the IDF and three injured Hamas fighters who were trapped in a house.<sup>28</sup> According to Majdi 'Abd Rabbo, the Israeli forces killed the three fighters on the night of January 6. The IDF spokesman stated on July 6 that a battalion commander with the rank of lieutenant colonel was "summoned to a disciplinary hearing" for authorizing soldiers to use Majdi Abd Rabbo as a human shield. The IDF did not state whether or not any disciplinary action was taken. According to the IDF spokesperson's statement, Majdi Abd Rabbo had "asked the soldiers" if he could be a go-between with the fighters, who were in a house "adjacent to his own," "so as to prevent the destruction of his house if a battle were to transpire." This claim was contradicted by Majdi Abd Rabbo's statement to Human Rights Watch. Majdi Abd Rabbo's home was largely destroyed.
2. Akram Ayish 'Abd Rabbo, 40, told Human Rights Watch that Israeli soldiers in the Izbt Abd Rabbo neighborhood took him out of his house on January 7 and made him move with them through the area for two days, forcing him at gunpoint to search homes for Palestinian fighters and weapons.
3. Arif Salman al-Err, 32, told Human Rights Watch that Israeli soldiers detained him on January 4 as he was trying to leave the Izbt Abd Rabbo area with his family. The soldiers separated him from his family, blindfolded him, put him

<sup>26</sup> Those wounded were: Jamila al-'Abd al-Habbash, 14, legs amputated; Mahmud 'Amr al-Habbash, 15, legs amputated; and Muhammad 'Amr al-Habbash, 16.

<sup>27</sup> See, e.g. Protocol I, art. 51(7). Fourth Geneva Convention, art. 40.

<sup>28</sup> See also Donald Macintyre, "My Terror as a Human Shield: The Story of Majdi Abed Rabbo," *The Independent*, January 30, 2008, <http://www.independent.co.uk/news/world/middle-east/my-terror-as-a-human-shield-the-story-of-majdi-abed-rabbo-1520420.html> (accessed March 11, 2009). Human Rights Watch has documented the IDF unlawful use of human shields in the West Bank and Gaza (see Human Rights Watch, *In a Dark Hour: the Use of Civilians During IDF Arrest Operations*, April 2002, <http://www.hrw.org/legacy/reports/2002/israel2/>, and Human Rights Watch, *Jenin: IDF Military Operations*, May 2002, <http://www.hrw.org/legacy/reports/2002/israel3/>).

in plastic handcuffs, and took him into a house where four other men were being detained. On the following day, January 5, al-Err said, the soldiers forced him to knock on the door of a nearby house and then to walk in front of an Israeli soldier up the stairs as the building was searched.

According to Majdi 'Abd Rabbo, Akram 'Abd Rabbo and Arif al-Err, major fighting had ceased during the time they were in IDF custody and the Israeli forces had the area generally under their control.

## **The refusal of Israeli forces to allow the evacuation of the wounded and permit access to ambulances (question 11 (c)).**

1. On January 4, 2009, 14 family members sheltered in the home of Sa'dallah and Sabah Abu Halima in the village of Siyafa, near Beit Lahiya in the northern Gaza Strip. Witnesses told Human Rights Watch that an Israeli artillery shell containing white phosphorus directly hit their house at around 4 p.m., killing five members of the family and wounding four. After the shelling of their home, family members loaded their five wounded relatives—Sabah Abu Halima, 44, mother (and wife of Sa'dallah); Yusif, 16, son; 'Ali, 5, son; Ghada, 21, wife of son Muhammad; and Farah, 2, daughter of Ghada and Muhammad—onto carts pulled by two tractors to get them medical care. The mother, Sabah, went with one tractor driven by a cousin, Hamada. She made it safely to al-Shifa hospital in Gaza City, where she received treatment for serious burns, before being transferred to Egypt. Ghada and her daughter Farah took the body of Shahid, a baby who had been killed by the white phosphorus shell, and rode on the cart pulled by the other tractor, driven by a cousin named Muhammad. The wounded brothers Yusif and 'Ali were able to walk on foot. About five uninjured members of the family, including a cousin named Mattar, who wanted to flee the area also came. According to witnesses, the group on the second tractor came under attack from Israeli forces in front of a nearby school, killing one cousin, Matter, instantly, and wounding cousin Muhammad, who later died. Witnesses said Israeli soldiers forced them to leave behind the bodies of the two cousins, and of the baby Shahid, killed by the previous attack. According to a witness, “We told [the soldiers] we want to take the others but they said no. Fourteen days later the ICRC [International Committee of the Red Cross] brought us the body of Muhammad. We recognized him only from his mobile phone. His body had been crushed.”
2. As discussed above, on January 7, Israeli forces killed two women and three children from the 'Abd Rabbo family as they were standing outside their home holding pieces of white cloth to signal their civilian status in the Izbt Abd Rabbo area of eastern Jabalya. After the shooting, the family told Human Rights Watch that they tried to call for medical help, but had difficulty reaching an ambulance because the mobile phone network in the area was down. When the family did reach the Palestinian Red Crescent Society, they were told that an ambulance could not come due to lack of coordination with the IDF, which was required for ambulances to access any areas where soldiers were present. About two hours later, without medical care, one of the girls who had been wounded by gunfire, seven-year-old Amal, died, family members said. According to media accounts, Samieh al-Sheikh, a neighbor who was an ambulance driver, said he heard the family's calls and tried to come to their assistance, but was blocked by the IDF.<sup>29</sup> Al-Sheikh told the media that he tried to drive his ambulance to Khalid 'Abd Rabbo's house but an Israeli tank unit ordered him to get out of the ambulance and walk out of the neighborhood. When he returned to his home after the Israeli withdrawal on January 18, he said he found his ambulance crushed under his demolished house. Human Rights Watch observed the crushed ambulance under the rubble of al-Sheikh's destroyed house on January 25. Around 2 p.m. on the day of the shooting, the 'Abd Rabbo family said they heard on the radio that the IDF would be instituting a three-hour “humanitarian pause” in the fighting, gathered the dead and wounded and walked west towards Jabalya town, where they found an ambulance that took the dead and wounded to Shifa Hospital in Gaza City.

---

<sup>29</sup> Dion Nissenbaum, “Israeli Troops Killed Gaza Children Carrying White Flag, Witnesses Say,” McClatchy, January 27, 2009.

3. On the afternoon of January 7, Israeli forces granted the outstanding request of the ICRC to access the Samouni area in southern Zeytoun, south of Gaza city.<sup>30</sup> Medics evacuated 18 wounded civilians and another 12 “extremely exhausted” civilians who had been trapped in houses without food and water since January 4. The ICRC criticized Israeli forces for failing to coordinate medical assistance because Israeli soldiers were stationed within around 50 meters from the buildings with the trapped civilians, which indicates that Israeli forces were in control of the area at the time. The Israeli army’s subsequent advance from Zeytoun northwest to Tel el-Hawa, a suburb of Gaza City that came under sustained IDF attacks beginning on around January 15, also suggests that Israeli troops maintained control of the Zeytoun area.<sup>31</sup> On January 18, within hours after Israel declared a unilateral ceasefire, Amnesty International reported that it visited the house where the ICRC medics had found many of the wounded and the dead but discovered it “had been bulldozed on top of the bodies.”<sup>32</sup> The building was unrecognizable when Human Rights Watch visited the area again in April.
4. As discussed above, Israeli forces shot and killed Ibtisam al-Qanu’ and injured Zakiya al-Qanu’ as the two women were holding white flags in the doorway of their home in the ‘Atatra neighborhood north of Gaza city on January 4. Witnesses said they called the Palestinian Red Crescent and ICRC to send an ambulance for Ibtisam, but no ambulance could come due to lack of coordination with the IDF. Israeli soldiers later occupied the al-Qanu’ house, where a number of people were sheltering, and took the group to an elementary school around 200 meters away, but did not allow them to bring Ibtisam’s body until later that night.
5. Israeli forces allegedly also prevented the evacuation of civilians in need of food and water. A resident of the Road 10 area of Zeytoun, Rajab Ishteivi, told Human Rights Watch that 110 residents of the area were trapped in their homes, including 32 people in his home, for 12 days, and that during this period they ran out of food and water. Residents requested evacuation by the ICRC on January 5, he said, but the ICRC was unable to evacuate anyone until January 14, when around 20 women, children, and elderly were evacuated, but not him and a large group of other residents. After the evacuation, two tanks positioned on a hill near a water tank, to the southwest, began shelling the houses in the area. “We decided then it would be better to die in the open than in the rubble,” Ishteivi said, and the rest of the group walked west to Salahaddin road and then to Gaza City.

## Right to liberty and security of person and treatment of persons deprived of their liberty (arts. 9 and 10)

### The administrative detention of Palestinians in the OPT, and information on the rules and modalities governing administrative detention (question 16).

Israeli military order 1591 from 2007 authorizes the military commander of the West Bank to detain an individual whom he determines “is a risk to the security of the area” for up to six months and renew the detention indefinitely. A military judge must review the commander’s detention order, but the judge does so in a closed hearing, without witnesses, based on secret

<sup>30</sup> Four Palestinian Red Crescent Society ambulances escorted by an ICRC vehicle evacuated the civilians, many of them children. The medical teams also found 15 corpses but were able to evacuate only two of them. ICRC, “Gaza: ICRC demands urgent access to wounded as Israeli army fails to assist wounded Palestinians,” January 8, 2009, <http://www.icrc.org/web/eng/siteeng0.nsf/html/palestine-news-080109>, accessed June 10, 2009.

<sup>31</sup> IDF practice during the war was “to control the area and deepen our hold of it” before pushing forward, according to the account of a reserve soldier under the command of an Armored Corps Brigade, which replaced the Givati Infantry Brigade in the Zeytoun area. Breaking the Silence, *Operation Cast Lead*, July 15, 2009, p. 7.

<sup>32</sup> Survivors pulled 22 decomposing bodies from the rubble on that day and on January 19. Amnesty International, “Operation ‘Cast Lead’: 22 days of death and destruction,” July 2009, p. 45.

information that the detainee and his attorney cannot see. The defendant may appeal the military judge's decision to the military court of appeal for administrative detainees located in the Ofer military base, near Ramallah in the West Bank.

1. Israeli authorities have subjected Palestinians to administrative detention under military orders on apparently political grounds. Israeli authorities detained Mohammed Othman, 34, an activist with the "Stop the Wall" campaign, a nonviolent protest movement, on September 22, 2009, as he returned to the West Bank from a trip to Norway, where he spoke about the separation barrier that Israel has constructed in the Occupied Palestinian Territory. On November 23, after Othman had been detained for 61 days under Israeli military orders "for the purpose of interrogation," Col. Ron Weisel, an Israeli military commander of the West Bank, ordered him held for three months of administrative detention on the grounds that he was a threat to the "security of the area." The military court of administrative detainees, located in Ofer military base, upheld the order on November 25 and counted the time that Othman had already been detained toward his detention. Othman was conditionally released – on payment of 10,000 shekels (US\$2630) bail and the obligation to report to military authorities immediately if summoned – on January 13, 2010, after 113 days in detention without charge and on the basis of evidence that he and his lawyer were not allowed to see. Othman has no criminal record and, to the knowledge of Human Rights Watch, has never advocated or participated in violence. According to the "Stop the Wall" campaign, an Israeli soldier had detained Othman at a checkpoint during the summer of 2009 and threatened him because of his advocacy against the wall.<sup>33</sup>

As of May 31, 2010, Israel held more than 213 Palestinians in administrative detention, according to the Israeli human rights organization B'Tselem; as of November 30, 2009, 119 administrative detainees had been detained for more than a year. According to the most recent available official statistics on the cases that actually go to trial in Israeli military courts, obtained by Yesh Din, an Israeli human rights organization, in 2006 Israeli military courts found defendants not guilty in only 23 (or 0.29 percent) of 9,123 trials.

## Rights of the child and equality before the law (arts. 24 and 26)

During Israel's military operation in Gaza from December 27, 2008 to January 18, 2009, at least 320 Palestinian children not taking part in hostilities were killed, according to the Israeli nongovernmental organization B'Tselem.<sup>34</sup> B'Tselem noted that it documented that 252 children under age 16 who did not take part in the hostilities were killed; the IDF stated that 89 persons under age 16 were killed.<sup>35</sup> Other nongovernmental organizations found that 860 children were injured.<sup>36</sup>

A further 19 children who were killed were classified as combatants by B'Tselem, including 17 children (ages 16 and 17) who were members of Islamic Jihad and Hamas, indicating that these armed groups violated the prohibition on the use of child soldiers.

There are an estimated 780,578 children in Gaza, accounting for 53 percent of the population.<sup>37</sup>

---

<sup>33</sup> Israeli authorities also allegedly violated Othman's rights in detention. According to Othman's lawyer, on November 2, 2009, Israeli authorities transferred Othman from the West Bank to a prison in Be'er Sheva, Israel, without informing his family or his lawyers, and barred his lawyers from seeing him for 15 days. Othman was not allowed to attend two subsequent hearings on his case.

<sup>34</sup> B'Tselem, "B'Tselem's investigation of fatalities in Operation Cast Lead," September 9, 2009, [http://www.btselem.org/Download/20090909\\_Cast\\_Lead\\_Fatalities\\_Eng.pdf](http://www.btselem.org/Download/20090909_Cast_Lead_Fatalities_Eng.pdf).

<sup>35</sup> Ibid.

<sup>36</sup> Al Mezan Center for Human Rights and Defense for Children International–Palestine, *Bearing the Brunt Again: Child Rights Violations During Operation Cast Lead*, September 2009, <http://www.dci-pal.org/english/publ/research/BearingTheBruntAgain.pdf>.

<sup>37</sup> Office for the Coordination of Humanitarian Affairs in the Occupied Palestinian Territory (OCHA–OPT) and Association of International Development Agencies, "The Gaza Blockade: Children and Education Fact Sheet," July 28, 2009, [http://www.ochaopt.org/documents/un\\_ngo\\_fact\\_sheet\\_blockade\\_figures\\_2009\\_07\\_28\\_english.pdf](http://www.ochaopt.org/documents/un_ngo_fact_sheet_blockade_figures_2009_07_28_english.pdf).

Human Rights Watch here provides information on attacks, particularly drone-launched missile attacks and Israel's use of white phosphorus munitions, that involved schools.

To date, Human Rights Watch is not aware that any members of the Israeli armed forces have been prosecuted or punished for any of these attacks described below. No Israeli government investigations outside the IDF have been conducted.

## **Reports of attacks against educational facilities and schools in the Occupied Palestinian Territories by the Israeli military and settlers (question 29 (a)).**

The Israeli offensive in Gaza resulted in the destruction of 18 schools (including eight kindergartens) and damaged at least 262 other schools; in North Gaza alone, nearly 9,000 students had to relocate to other schools after their own schools were destroyed. Six university buildings were destroyed, and 16 were damaged.<sup>38</sup> Rocket attacks by Hamas and other Palestinian armed groups have struck and badly damaged several kindergartens and schools in Israel.

The IDF launched attacks that struck schools in cases where Human Rights Watch found no evidence of the presence of legitimate military targets such as members of Palestinian armed groups. The IDF attacks that struck schools documented by Human Rights Watch include:

1. The air-bursting of at least three white phosphorus shells at a school in Beit Lahiya, that was sheltering roughly 1,600 displaced persons, including an unknown number of children, on January 17, the day before the cessation of major hostilities. One discharged shell landed in a classroom, killing two brothers, Bilal al-Ashqar, 5, and Muhammad al-Ashqar, 4, who were sleeping, and severely injuring their mother and a cousin, Mona, 18. The attack wounded another 12 people and set a classroom on fire. As with all of its facilities in Gaza, the UN had provided the IDF with the GPS coordinates of the school prior to military operations.
2. A drone-launched missile attack that killed three men inside the UNRWA Asma Elementary Co-educational "A" School in Beit Lahiya, in northern Gaza, on January 5, 2009. The UN opened the school as a shelter for persons displaced by fighting earlier that day, and had previously notified the Israeli authorities of the GPS coordinates of the school. The displaced persons, numbering 406 people, stayed in classrooms and used two bathrooms inside the main building. According to UNRWA regulations, every individual who entered the school was subject to search, especially for weapons. Around 10 p.m., three young men from the al-Sultan family wanted to use the bathroom but the facilities in the school's main building were occupied, so they left the building to use the bathrooms in the courtyard. While there, a single Israeli missile directly struck the bathroom, killing all three. The hole in the bathroom wall and surrounding fragment marks, as shown by CNN and the BBC, are fully consistent with impact from a drone-launched Spike missile. Those killed were Rawhi Jamal al-Sultan, 24; Hussein Mahmud al-Sultan, 23; and Abed Samir al-Sultan, 19.

## **Restrictions on school development (question 29 (b)).**

Although it withdrew its settlements and ground forces from the territory in 2005, Israel controls the Gaza Strip's land, air, and sea access with the exception of a 15-kilometer border with Egypt, and remains an occupying power under the Fourth Geneva Convention. International humanitarian law provides that Israel as an occupying power must ensure the safety and well-being of the civilian population. The blockade that Israel and Egypt have imposed on Gaza since June 2007 is a form of collective punishment against the civilian population, in violation of international law.

---

<sup>38</sup> OCHA and Association of International Development Agencies, "The Gaza Blockade: Children and Education Fact Sheet," July 28, 2009, [http://www.ochaopt.org/documents/un\\_ngo\\_fact\\_sheet\\_blockade\\_figures\\_2009\\_07\\_28\\_english.pdf](http://www.ochaopt.org/documents/un_ngo_fact_sheet_blockade_figures_2009_07_28_english.pdf), accessed July 28, 2009. The education system of Gaza serves approximately 450,000 children and adolescents through 373 government schools, 221 UNRWA schools and 36 private schools. OCHA May, p. 10.

Israel's imposition of a blockade on Gaza during and after the conflict greatly hindered the reconstruction of schools by prohibiting the import of construction materials and severely limited the availability of school supplies.

Post-war reconstruction in Gaza has been greatly hampered by the continuing blockade by Israel and Egypt. Israel's strict blockade of Gaza that began in June 2007 remained in place following the end of major military operations on January 18, 2009, exacerbating the effects of the wartime destruction. Although the Israeli security cabinet decided on June 20, 2010 to allow imports into Gaza of all items except weapons and a specified list of "dual-use" items, Israel continues to deny entry of cement, iron bars, and other construction materials on the grounds that Hamas could divert them for military purposes, except for Palestinian Authority-authorized "Projects Implemented by the International Community." Some reconstruction materials are reportedly smuggled into Gaza from Egypt via underground tunnels.

Israel's revised blockade policy continues to bar exports from Gaza as well as the movement of people, and thus continues to affect many aspects of economic and daily life in Gaza, not least the education system. Article 50 of the Fourth Geneva Convention concerning occupied territories requires the occupying power to "facilitate the proper working of all institutions devoted to the care and education of children."

Israel's easing of the blockade on imports should lessen the impact of the blockade on Palestinian children's education in Gaza when school resumes this fall as compared to previous years. In October 2009, more than one month after the last school year began, Israeli restrictions caused severe shortages that left students unable to afford supplies such as notebooks.<sup>39</sup> Students had to share or take turns studying from used textbooks and workbooks. Some did not receive any books for the year's classes. Supplies smuggled through tunnels underneath Gaza's southern border with Egypt failed to make up for the shortages caused by Israel's arbitrary restrictions on imports of educational materials.

When the 2009 school year began in late August, the UN reported that public and private schools serving more than 240,000 students in Gaza lacked education materials. UNRWA schools have an additional 207,250 students. UNRWA was unable to print 10 percent of required textbooks because Israel has not approved the necessary ink and paper imports. Israel had also not approved imports of 5,000 school desks for UNRWA students, and 4,000 tables and chairs for teachers in classrooms.

---

<sup>39</sup> Human Rights Watch, "Israel: Stop Blocking School Supplies from Entering Gaza," October 11, 2009.