



BEARING THE BRUNT AGAIN

Child Rights Violations during
Operation Cast Lead

September 2009



Defence for Children International - Palestine Section



Al Mezan Centre for Human Rights

Al Mezan Centre for Human Rights (Al Mezan) and Defence for Children International - Palestine Section (DCI-Palestine) monitor, document and report on human rights violations arising daily from the conflict and military occupation. Al Mezan documents all types of human rights violations including inter alia: unlawful killing; maiming; torture; destruction of civilian objects; attacks on civilians; and arbitrary detention. DCI-Palestine specializes in violations of children's rights as set out in the UN Convention on the Rights of the Child and focuses on the right to life, the right to freedom, the right to be free from physical and mental violence, and the right to education.

Al Mezan Centre for Human Rights is a Palestinian non-governmental non-partisan organisation based in the Gaza Strip. Al Mezan's mandate is to promote human rights, protect and prevent violations of human rights in general and economic, social and cultural rights in particular, provide effective aid to victims of violations and enhance the quality of life of the community in marginalized communities in the Gaza Strip. Al Mezan monitors and documents human rights violations perpetrated in the Gaza Strip, by all duty-bearers, delivers training and capacity building programmes, provides free legal aid and researches and publishes reports about the human rights situation in the Gaza Strip.

Defence for Children International - Palestine Section is a national section of the international non-governmental child rights organisation and movement, Defence for Children International (DCI), established in 1979, with consultative status with ECOSOC. DCI-Palestine was established in 1992, and is dedicated to promoting and protecting the rights of Palestinian children in accordance with the UN Convention on the Rights of the Child (CRC), as well as other international, regional and local standards. As part of its ongoing work to uphold the rights of Palestinian children, DCI-Palestine provides free legal assistance, collects evidence, researches and drafts reports and conducts general advocacy targeting various duty-bearers.

The views expressed in this report do not necessarily represent the views of the financial supporters thereof.

Photo on cover: Boy eating in front of destroyed home. Photo credit: Maja Hitij

Design by:  creative|ad design+print co. ltd.

Acknowledgements

Producing this report would not have been possible without the invaluable work of a number of individuals. Al Mezan and DCI-Palestine would particularly like to express their deep appreciation and indebtedness to their human rights monitoring and documentation teams of fieldworkers, coordinators and office staff, who worked incessantly and meticulously, often exposing themselves to very real threats to their own safety, to retrieve, verify and prepare the information related to the case studies presented in this report. Furthermore, sincere thanks are extended to the research and advocacy teams who compiled and researched the report. In addition, Al Mezan and DCI-Palestine express their deepest thanks to Save the Children UK for the financial support which made possible the documentation of child rights violations perpetrated during Operation Cast Lead and the production of this report. Last but not least, Al Mezan and DCI-Palestine would like to extend particular gratitude and admiration to the victims, victims' families and eyewitnesses who willingly shared with us the testimonies of the deeply traumatic and tragic events they went through during Operation Cast Lead.

This report is dedicated to all Palestinian children who were killed, maimed, injured or denied their basic rights as a result of Operation Cast Lead and to the survivors living with memories of trauma and loss and hoping that the perpetrators will someday be held accountable for their actions.

Table of Contents

Table of Figures	6
Acronyms	7
Executive Summary	8
Recommendations.....	13
1. Background.....	16
1.1. Target: Gaza Strip.....	16
1.2. Blockade and increasing isolation and suffocation of Gaza.....	17
1.3. Overview of recent Israeli military attacks in Gaza from 2005 to 2009.....	18
1.4. Child fatalities in Gaza since 2000.....	20
2. International Law.....	22
2.1. The law of occupation	22
2.2. Is Israel an occupying power in Gaza?.....	22
2.3. Israel's obligations to the residents of Gaza.....	23
2.4. The right to self-defence.....	24
2.5. Basic principles of the laws of war	24
2.6. Accountability	25
3. Killing and Maiming of Children and Obstructed Medical Access to Injured Children.....	28
3.1. Summary.....	28
3.2. Definitions.....	28
3.3. Figures.....	28
3.4. Operation Cast Lead: Facts and stories.....	30
3.4.1 Aerial attacks on day 1 of the offensive	30
3.4.2 Obstruction of medical access.....	32
3.4.3 White flag killings	35
3.4.4 Drone attacks	37
3.4.5 Targeted assassinations.....	38
3.4.6 A knock on the roof	40
3.4.7 White phosphorous attacks	42
3.4.8 Children killed while trying to flee to safety	46
3.4.9 Injuries	49
4. Human Shields	52
4.1. Summary.....	52
4.2. Definition	52
4.3. Prohibition under international law.....	52
4.4. Prohibition under Israeli domestic law.....	53
4.5. Incidents	53
4.5.1 Al-Atatra - 5-15 January 2009.....	53
4.5.2 Ezbet Abed-Rabbo, Jabalia - 5-15 January 2009	55
4.5.3 Tal Al-Hawa - 15 January 2009.....	56
4.6. Child rights violations and long-term consequences	58
4.7. Accountability	59
4.8. Conclusion	59
5. Attacks on Schools and the Right to Education.....	62
5.1. Summary.....	62
5.2. Definitions.....	62
5.3. Partial or total destruction of schools	62
5.4. Killing and injury of children	64
5.4.1 Balqis Al-Yaman School, Gaza City - 27 December 2008	64
5.4.2 Bir Al-Sabea Secondary School, Rafah City - 27 December 2008.....	66
5.4.3 Al-Fakhoura Elementary School, Jabalia - 6 January 2009	68

5.4.4 Mashrou Boys School, Beit Lahiya - 17 January 2009	72
5.5 Psychological impact	75
5.6 Effects on education and blockade.....	77
5.7 Conclusion	78
6. Destruction of Civilian Homes	80
6.1 Summary.....	80
6.2 Definitions.....	80
6.3 International law	80
6.4 Key figures.....	81
6.5 Methods of shelter destruction employed by Israeli troops during Operation Cast Lead	82
6.6 Incidents	83
6.6.1 Al Qarara town, east of Khan Younis.....	83
6.6.2 Al Fukhari village, east of Khan Younis	84
6.6.3 Destruction of Ezbet Abed-Rabbo neighbourhood, North Gaza	86
6.6.4 Attacks in Yebna Neighbourhood of Rafah, south Gaza	89
6.6.5 The bombardment of Rafah border area, south Gaza	89
6.6.6 The destruction of Az-Zeitoun neighbourhood, Gaza City	90
6.6.7 As-Salam neighbourhood in Rafah, south Gaza	91
6.6.8 Tal Az-Za'tar neighbourhood, Jabalia, North Gaza	92
6.6.9 Destruction of civilian homes with precision missiles	93
6.7 Impact on children.....	94
7. Destruction of Water and Sanitation Infrastructure	96
7.1 International law	96
7.2 Attacks on the water and sanitation sector during Operation Cast Lead.....	97
7.3 Incidents	97
7.4 Impact on access to safe water	98
7.5 Health consequences for Gaza's children.....	99
7.6 Conclusion	100
8. Detention: Children Arrested and Detained in the West Bank during Operation Cast Lead	102
8.1 Summary.....	102
8.2 Definition and overview	102
8.3 International law	102
8.4 Violation trends	103
8.5 Violation incidents.....	104
8.6 Conclusion	107
9 Conclusion.....	110
Annexes	112
ANNEX 1 - Methodology on documentation of human rights and humanitarian law violations.....	112
ANNEX 2 - List of case studies.....	114

Table of Figures

Map 1:	Number of children killed during Operation Cast Lead according to governorate	29
Graph 1:	Number of Palestinian rockets and mortar shells fired in 2008.....	20
Graph 2:	Number of shelters damaged or destroyed according to the method of destruction	82
Graph 3:	Monthly numbers of child detainees - 2008/2009	103
Chart 1:	Child fatalities according to age category.....	30
Chart 2:	Child fatalities according to method of killing	30
Chart 3:	Child fatalities according to gender	30
Table 1:	Destruction of civilian homes according to extent of damage and governorate	81
Table 2:	Restoration of access to water in Gaza, 15 January - 14 July 2009.....	98
Table 3:	Ages for all cases received by DCI-Palestine in January-March 2009.....	104
Table 4:	Type of charges against children represented by DCI-Palestine in Israeli military courts (for cases received in January-March 2009).....	104
Table 5:	Length of sentences received by children represented by DCI-Palestine in 2008/2009	104

Acronyms

AIDA	Association of International Development Agencies
DCI	Defence for Children International
DCI-Palestine	Defence for Children International - Palestine Section
DCI-PS	Defence for Children International - Palestine Section
ECOSOC	UN Economic and Social Council
GPS	Global Positioning System
HCJ	High Court of Justice
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ICRC	International Committee of the Red Cross
IDF	Israeli Defence Forces
IOF	Israeli Occupation Forces
IPS	Israeli Prison Service
MFA	Ministry of Foreign Affairs
NGO	Non-Governmental Organisation
OCHA	UN Office for the Coordination of Humanitarian Affairs
OPAC	Optional Protocol on Children and Armed Conflict
OPT	Occupied Palestinian Territory
PA	Palestinian Authority
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
UXO	Unexploded ordnance
WHO	World Health Organisation

Executive Summary

This report, published by Al-Mezan Centre for Human Rights and Defence for Children International - Palestine Section, provides a comprehensive overview of child rights violations perpetrated by the Israeli military during Operation Cast Lead including, *inter alia*, unlawful killing and maiming, the destruction of schools, homes and life-sustaining infrastructure such as water and sanitation networks, the use of children as human shields, and the arbitrary detention of children. Forty-three case studies illustrate the vast range of violations perpetrated. This Executive Summary provides a brief chapter outline and presents the key figures provided in the report. The report is based on extensive primary research dependent on documentation techniques meeting international standards as outlined in Annex 1.

Section 1: Background

At 11.30am on 27 December 2008, Israeli forces began an intensive aerial and naval bombing campaign on the Gaza Strip as a prelude to a large-scale ground invasion which commenced on 3 January 2009. The stated aim of this 23-day offensive, codenamed Operation Cast Lead, was to end rocket attacks into Israel by armed groups and to alter the security conditions at its southern border. By the end of the offensive on 18 January 2009, 1,409 Palestinians had been killed, of whom 1,172 were civilians (non-combatants). At least 353 children were killed and a further 860 injured. An additional five child fatalities documented in this period may also be attributable to Israeli military actions, potentially bringing the total child casualty rate to 358. This figure represents more than 50 percent of the total number of children killed in the eight-year period prior to the beginning of Operation Cast Lead.

This section of the report stresses that Operation Cast Lead marked an intensification of military assaults carried out by Israeli forces on the Gaza Strip following Israel's unilateral disengagement from the Strip in 2005; assaults which have been characterized by the perpetration of serious violations of international law. For example, between September 2005 and September 2006, Israeli attacks killed 525 Palestinians and injured 1,527. Israeli military operations Summer Rains (June-September 2006) and Autumn Clouds (November 2006) claimed the lives of over 400 Palestinians including 85 children, while Operation Warm Winter, launched in February 2008 claimed the lives of 33 children in just five days.

Operation Cast Lead must also be viewed in the wider context of the increasing isolation and impoverishment of the Gaza Strip. Following the January 2006 electoral success of the Hamas movement, Israel prohibited all commercial exports through Karni crossing and severely restricted imports, precipitating shortages of basic foodstuffs, fuel and medical supplies. The siege intensified after Hamas took control of Gaza in June 2007 after which Israel kept the border crossings hermetically sealed, allowing only minimal humanitarian goods and supplies to enter the territory. Israel's definition of humanitarian supplies excludes items such as school books and stationery. As a direct result of the siege, which constitutes a form of collective punishment, prohibited under international humanitarian law, Gaza's economy has all but collapsed, unemployment and poverty have sky-rocketed and essential infrastructure such as water and sanitation networks have deteriorated at an alarming rate. On the eve of Operation Cast Lead, Gaza's population of 1.5 million, of whom 56 percent are children, was already on the edge of a humanitarian crisis.

Section 2: International Law

International humanitarian law regulates all cases of armed conflict and belligerent occupation. The primary bodies of applicable law are the four *Geneva Conventions* of 1949 and their additional protocols, the *Hague Regulations* of 1907 and customary international humanitarian law. As a party to the conflict and an occupying power, Israel is thus bound by a number of legal obligations, not least the obligation to spare civilians (including children) from the effects of hostilities, and to ensure the welfare of the occupied population.

This section provides a legal background to the issues discussed in this report. It begins by analyzing Israel's status as an occupying power, and detailing Israel's obligations vis-à-vis the residents of the Gaza Strip, which emanate from international humanitarian law and human rights law. Israel's claim to the right to self-defence as a justification for Operation Cast Lead is also discussed, and dismissed as not having legal grounds. The basic principles of international humanitarian law are then presented, such as the principle of distinction, and the principle of proportionality. As impunity has been a key feature of Israel's occupation of Palestinian land, and a major driver of continued violations of international law, the issue of accountability is also discussed.

Section 3: Killing and Maiming of Children and Obstructed Medical Access to Injured Children

The direct targeting of civilians and the killing, maiming or injuring of civilians in indiscriminate attacks constitute unlawful acts that amount to violations of the right to life and grave breaches of the Geneva Conventions. Obstructing medical access to the wounded also constitutes a serious violation of international law (Article 16 of the *Fourth Geneva Convention*). During Operation Cast Lead, Israeli forces killed at least 353 children and injured a further 860; 66 of these children died after Israeli forces obstructed medical access and 116 were killed by missiles launched by unmanned aircraft (drones). Drones fire precision missiles and have the ability to distinguish clearly between children and adults.

As this section illustrates through the presentation of 18 case studies, many of these attacks appear to have directly contravened basic principles of international law and in several incidents children appear to have been directly targeted. Case 2 details the killing of Faris and Mohammed Hammouda (aged 2 and 15 respectively). Faris died shortly after the Hammouda family home was directly shelled and Mohammed bled to death over the course of several hours during which his father repeatedly called the emergency services to plead for help. He was informed by the International Committee of the Red Cross that Israeli forces had prohibited access to his neighbourhood. Case 4 details the killing of Suad (9) and Amal (2) and the maiming of Samar (4). The family, ordered to leave their home by Israeli forces, stepped out of their front door waving white flags. Israeli forces stationed on a nearby tank opened fire directly at them. Israeli forces killed at least 11 fleeing civilians waving white flags during Operation Cast Lead. Case 7 illustrates the consequences of Israel's new 'knock on the roof' procedure, in which a relatively small munition is fired by Israeli aircraft as a warning message to the inhabitants, giving them a few minutes to evacuate. Four children were killed in the attack described in this case study. Other cases studies in this section focus on white phosphorous attacks, drone attacks and the killing of children attempting to flee to safety.

Section 4: Human Shields

This section presents three incidents in which seven children were used as human shields by the Israeli military. This practice involves forcing civilians to directly assist in military operations or using them to shield an area or troops from attack. The use of civilians as human shields is prohibited under international law and was banned by an Israeli High Court ruling in 2005. Case 19 details how 'Ala (15), Ali (16), Nafiz (17), Hussein (12) and Khalil (15), were detained in a trench for several days as soldiers carried out attacks around it, shooting over the heads of the children. Case 20 details how 17-year-old Amin was forced to accompany soldiers deploying through his neighbourhood. He was forced to crawl in front of the soldiers, and handcuffed, blindfolded and beaten several times during his ordeal. Case 21 details how 9-year-old Majed was ordered at gunpoint to open bags and suitcases suspected of being booby-trapped. When he struggled to open a locked suitcase, he was grabbed by the hair, slapped and slammed against a wall.

Section 5: Attacks on Schools and the Right to Education

Education facilities are presumed to be civilian objects and are protected under international customary law. During Operation Cast Lead, Israeli forces completely destroyed 18 schools and damaged over 260, including five operating as temporary emergency shelters. At least 26 children were killed while near schools, on their way to or from schools, or while sheltering in schools, and at least 922 registered schoolchildren were injured, approximately 732 of whom sustained some form of long-term disability as a consequence of the offensive.

The seven cases in this section describe the killings of ten of the victims of these attacks. Case 24 details the killing of Ahmed (16) and Mahmoud (16), who were on their way home from school when Israeli warplanes bombed Rafah City Hall on 27 December 2008. Cases 25, 26 and 27 focus on three of the 14 children who were killed when Israeli tanks shelled the perimeter of Al-Fakhoura school in Jabalia refugee camp in the north of Gaza. At the time of the attack, it was being used as a UN shelter and the UN agency, UNRWA, had provided the exact GPS coordinates of the school to the Israeli army. Case 28 details the white phosphorous attack on Mashrou Boys School in Beit Lahiya, North Gaza, which resulted in the killing of Bilal (5) and Mohammed (3). For many children in Gaza, schools are no longer perceived as safe places devoted to learning and playing; in this section, the psychological consequences of such attacks on children are presented and examined. The impact of the siege, which classifies stationery and school textbooks as 'non-essential' or 'luxury' items, is also reviewed.

Section 6: Destruction of Civilian Homes

During Operation Cast Lead, Israeli forces completely destroyed at least 3,600 shelters (individual housing units), displacing around 21,000 people, including an estimated 10,500 children. A further 2,700 shelters sustained major damages and around 52,000 sustained minor damages. As this section illustrates, the vast majority of the destruction of civilian homes appears to be unlawful. For instance, 1,723 shelters were destroyed in neighbourhoods under the effective control of Israeli forces when they could no longer be considered military objectives. The 14 cases in this section detail the vast destruction inflicted on different areas in the Gaza Strip including Rafah in the south, Ezbet Abed-Rabbo in the north and Al-Fukhari village in the east. Many children were killed in these attacks. Case 41 details the shelling of the Deeb family home in which five children were killed. Case 42 details the bombing of the Ad-Dayah family home in which 12 children were killed.

More than eight months after the withdrawal of Israeli forces, none of these homes has been rebuilt. As Israel's siege continues, reconstruction remains impossible. Some families are still living in tents, and many are living in damaged homes. In addition to the destruction wrought during Operation Cast Lead, around 4,500 shelters destroyed between 2001 and 2008 have yet to be rebuilt. Consequently, around 25,000 children remain displaced today. This section also presents and examines the psychological impact of the destruction of homes on children.

Section 7: Destruction of Water and Sanitation Infrastructure

Israeli military attacks on water and sanitation facilities during Operation Cast Lead exacerbated an already critical public health situation in the Gaza Strip. During the 23-day military offensive, Israeli forces damaged 19,000 metres of pipes, several vital water tanks and 38 wells; 74 wells were totally destroyed. Sewage infrastructure was also the target of attacks. It is likely that Israeli forces have detailed information about the location of water and sanitation infrastructure in Gaza, raising serious questions about whether Israeli forces took the necessary measures to avoid destroying civilian infrastructure as required by international humanitarian law.

During Operation Cast Lead, 500,000 Palestinians, including around 250,000 children completely lost access to running water. A further 500,000, including around 25,000 children had access to water for only several hours a week; and the remaining third of the population received water for 4-6 hours every two or three days. As a result of the siege, and the destruction caused by the offensive, it took months to restore water access to pre-December 2008 levels. As of 3 September 2009, 10,000 individuals remained without access to the water network, and 60 percent of the population did not have continuous access to water. As well as reducing access, Israeli attacks also contaminated the local water supply; due to damage caused by the attacks, sewage flowed into the water system in a number of areas. This situation has serious implications for children's health including the dissemination of diseases such as diarrhoea, blue-baby syndrome and potentially cholera.

Every individual has the right to the highest attainable standard of health. This right is an inclusive right, incorporating not only health care, but also the underlying determinants of health, such as access to safe and potable water; adequate sanitation; an adequate supply of safe food; nutrition and housing; and healthy occupational and environmental conditions. The current health risks posed to the residents of the Gaza Strip as a result of the water and sanitation crisis are serious, and entirely man-made. They are the result of the long-standing Israeli siege, and the extensive destruction caused by the offensive.

Section 8: Detention - Children Arrested and Detained in the West Bank during Operation Cast Lead

The first three months of 2009 saw a significant increase in the number of children detained by Israeli forces in the West Bank; there were 389 children in Israeli detention at the end of January 2009, 423 at the end of February, and 420 at the end of March. These figures are markedly higher than the average monthly rate of 319 child detainees throughout 2008, and the detention rate in February 2009 was 37.8 percent higher than in the corresponding period from the previous year. According to B'Tselem records, such high numbers of child detainees have not been observed since August 2005. Between January and March, DCI-Palestine investigated two incidents involving the mass arrest and detention of children; on 19 January seven children were arrested in the village of Tura al Gharbiya, near Jenin, while on 26 March, up to 90 children were detained from the village of Haris, near Salfit.

The ages of the children detained were younger than average, and most were charged with minor offences for which they received short sentences. Of the total number of cases represented by DCI-Palestine in the first three months of 2009, 36 percent were between 12 and 15 years old, compared to approximately 23 percent in 2008. Sixty-one percent of these children were charged with stone throwing, compared to an annual figure of approximately 27 percent in 2008. All children represented by DCI-Palestine received sentences of less than one year, compared to 71 percent of cases in 2008. These arrests were characterized by an unusually high level of physical abuse against child detainees, a trend confirmed by recent testimonies from Israeli soldiers. Once arrested, children are tried and prosecuted under conditions which violate fundamental international legal standards. For example, children are invariably denied access to a lawyer until the end of the interrogation process, and they are often forced to make a confession under duress.

Conclusion

Operation Cast Lead was characterised by the serious and extensive disregard of fundamental principles of international law. Disproportional and indiscriminate attacks against civilian objects and the civilian population caused widespread civilian casualties, of which almost a third were children. The authors of the report are particularly concerned with the following documented Israeli practices: direct attacks on civilians waving white flags; the targeting of civilians with high-precision weapons; the indiscriminate use of white phosphorous; the use of children as human shields; obstruction of medical access to the wounded and sick; and the targeting of protected objects such as ambulances attempting to evacuate.

On 15 September 2009, the UN Fact-Finding Mission chaired by Justice Richard Goldstone released a report detailing compelling evidence of serious violations committed by Israel against Palestinian children during Operation Cast Lead. Al Mezan and DCI-Palestine are urging international mobilization to ensure that perpetrators of these crimes are held accountable and such grave violations are no more committed. The children of Gaza are once more bearing the brunt of a brutal Israeli military offensive, and, although the majority of damages caused are irreparable, it is the responsibility of the international community to provide them with an effective response and endeavour to prevent further violations of their rights.

In this regard, Al Mezan and DCI-Palestine fully endorse the recommendations put forward by the Goldstone Mission and put particular emphasis on the following recommendations:

- Failing the Government of Israel undertaking timely independent and impartial investigations, then the UN Security Council should refer the situation in Gaza to the Prosecutor of the International Criminal Court (ICC) for further action.
- Failing appropriate action being taken by the UN Security Council to refer the situation in Gaza to the ICC, then:
 - The UN General Assembly should take action under Resolution 377(V) and Article 22 of the UN Charter and establish an international tribunal for Gaza to investigate and, where appropriate, prosecute the serious violations of international law committed during Operation Cast Lead.
 - Should the UN General Assembly fail to take appropriate action, then State Parties to the Fourth Geneva Convention should initiate their own criminal investigations and, where appropriate, prosecute the serious violations of international law committed during the Gaza offensive in their national courts under the principle of universal jurisdiction.
- The Government of Israel must immediately end the blockade of the Gaza Strip and cease the collective punishment of the entire civilian population.
- The Government of Israel should immediately release Palestinians who are detained in Israeli prisons in connection with the occupation and the release of children should be an utmost priority, as recommended by the Goldstone Mission.

Recommendations

In view of the gravity of the violations of international human rights and humanitarian law and possible war crimes and crimes against humanity perpetrated by the State of Israel during Operation Cast Lead, as described in this report and in the Report of the UN Fact-finding Mission on the Gaza Conflict (hereinafter Goldstone Mission), urgent steps must be taken to bring the perpetrators to justice and provide reparations to the victims. As stressed in this report, the violations perpetrated during Operation Cast Lead, unprecedented in scale and severity in the OPT, follow decades of impunity for international law violations. Only the prosecution of perpetrators of serious human rights violations can significantly contribute to ending such violations.

Immediate and effective measures must also be taken by Israel to:

- Review its rules of engagement in order to ensure compliance with international humanitarian law and minimize the impact of military operations on civilians, and set up an effective monitoring mechanism to ensure compliance with international humanitarian law rules by troops;
- End its 27-month siege on the Gaza Strip, a form of collective punishment prohibited under international law, in order that reconstruction can take place and its residents, including nearly 800,000 children, can attempt to rebuild their lives;
- Cease the detention and ill-treatment of civilians, particularly children, on so-called security grounds, and with the apparent aim to discourage political activity.

In this regard, Al Mezan and DCI-Palestine fully endorse the recommendations put forward by the Goldstone Mission and put particular emphasis on the following recommendations pertaining to (1) accountability, (2) the conduct of hostilities and its impact on civilians, (3) the Gaza siege and reconstruction, and (4) children's rights:

1. ACCOUNTABILITY

1.1 In accordance with recommendations made in the Goldstone Mission Report, Al Mezan and DCI-Palestine recommend that the **UN Human Rights Council**:

- (a) endorse the recommendations of the Goldstone Mission Report;
- (b) request the UN Secretary-General to bring this report to the attention of the UN Security Council in order that the latter may take action (see below 1.2);
- (c) submit the Goldstone Mission Report to the Prosecutor of the International Criminal Court and the UN General Assembly.

1.2 In accordance with recommendations made in the Goldstone Mission Report, Al Mezan and DCI-Palestine recommend that the **UN Security Council**:

- (a) require the Government of Israel to initiate, within the next three months, independent and impartial investigations into the serious violations reported by the Mission, and inform the UN Security Council of progress made to investigate and prosecute these violations;
- (b) establish "*an independent committee of experts in international humanitarian and human rights law to monitor and report on any domestic legal or other proceedings undertaken by the Government of Israel*" (p. 547) in relation to Operation Cast Lead investigations;
- (c) refer the situation to the Prosecutor of the International Criminal Court should Israel fail to initiate these investigations.

1.3 Al Mezan and DCI-Palestine also concur with the Goldstone Mission in recommending that **High Contracting Parties to the Geneva Conventions** initiate criminal investigations in their own courts exercising universal jurisdiction, "*where there is sufficient evidence of the commission of grave breaches of the Geneva Conventions*" (p. 552), and proceed with prosecutions where warranted.

1.4 Al Mezan and DCI-Palestine recommend that the international community, in particular the **European Union, the Quartet and State Parties to the *Fourth Geneva Convention***, utilise all political, diplomatic and economic means at their disposal to ensure that Israel execute the above recommendations and commence investigations into serious violations committed by its military forces during Operation Cast Lead with a view to prosecute perpetrators.

1.5 With specific regard to the **European Union**, Al Mezan and DCI-Palestine recommend that it immediately, and officially, suspends the EU-Israel Association Agreement until those responsible for serious human rights violations perpetrated during Operation Cast Lead have been held to account.

2. CONDUCT OF HOSTILITIES

2.1 In accordance with recommendations made in the Goldstone Mission Report, Al Mezan and DCI-Palestine recommend that the **Government of Israel** initiate a review of its military's rules of engagement in order to ensure compliance with international humanitarian law and international human rights law.

2.2 Al Mezan and DCI-Palestine also concur with the Goldstone Mission in recommending that the *"UN General Assembly ask the Government of Switzerland to convene a conference of the High Contracting Parties to the Fourth Geneva Convention of 1949 on measures to enforce the Convention in the OPT and to ensure its respect in accordance with art. 1."* (page 549)

3. GAZA SIEGE AND RECONSTRUCTION

3.1 In accordance with recommendations made in the Goldstone Mission Report, Al Mezan and DCI-Palestine recommend that the **Government of Israel** immediately end the blockade of the Gaza Strip by allowing passage of people and goods through the border crossings and enable reconstruction and the resumption of economic activity in the Strip.

3.2 Al Mezan and DCI-Palestine recommend that the **UN General Assembly** and the **UN Security Council** issue resolutions condemning the collective punishment that Israel is imposing on the civilian population of the Gaza Strip through its siege on Gaza and calling for an immediate end to such collective punishment. In this regard, we also call on the **Palestinian Authority** and official Palestinian representatives at the UN to actively promote petitions to the General Assembly and the Security Council to issue such resolutions.

4. CHILDREN'S RIGHTS

4.1 With specific regard to Palestinians detained by Israel, Al Mezan and DCI-Palestine concur with the Goldstone Mission in recommending that the **Government of Israel** *"release Palestinians who are detained in Israeli prisons in connection with the occupation"*, and that *"the release of children should be an utmost priority."* (page 550)

4.2 Al Mezan and DCI-Palestine recommend that the **UN Special Representative of the Secretary General on Children and Armed Conflict** take into consideration the systematic pattern of unlawful killing and maiming in the OPT when defining the criteria for listing and de-listing parties under the new trigger prescribed by the UN Security Council Resolution 1882 (S/RES/1882, 2009). Since the beginning of the Second Intifada almost 1,000 children have been killed as a result of Israeli military offensives in the Gaza Strip. The 353 children killed during and in the immediate aftermath of the 23-day Operation Cast Lead and evidence of the unlawful character of these killings reflect the urgent need to monitor and report grave violations in the region.



Children in a UN shelter (Gaza Al-Jadida Preparatory School for Boys) during Operation Cast Lead. Photo credit: Al Mezan

1. Background

1. Background

Operation Cast Lead began on 27 December 2008 when Israel unleashed a massive aerial and naval bombardment of the Gaza Strip (Gaza) that was claimed to target Hamas members and infrastructure. On 3 January 2009, Israeli ground forces¹ invaded while the aerial and naval bombardment continued. Operation Cast Lead came to an end on 18 January 2009, 23 days after it began, a day after Israel's announcement of a unilateral ceasefire. It claimed the lives of more than 1,400 Palestinians², including at least 353³ children, and injured more than 4,000 others, including at least 860 children.⁴

Operation Cast Lead must be viewed in the wider context of increasing isolation and impoverishment of the Gaza Strip, an ongoing economic blockade that had entered its 18th month when the Israeli assault began and more than four decades of Israeli military occupation during which Palestinians have suffered the loss of part of their land and the continued denial of their fundamental rights and freedoms. More than eight months after the end of Operation Cast Lead, Israel's ongoing blockade of Gaza continues to prevent reconstruction or rehabilitation.

1.1 Target: Gaza Strip

Gaza is a thin strip of land, 40km long by 10km wide, bordered by Israel, Egypt and the Mediterranean Sea. It is one of the most densely populated places on earth with a population of about 1.5 million,⁵ of which over one million⁶ are registered as refugees originating from cities and villages inside what is now Israel. More than half of the population (56 percent) are children.⁷

Control of Gaza has changed hands several times in recent history. Following World War I, the Gaza Strip became part of the British Mandate of Palestine until 1947. After the 1948 war, Gaza came under Egyptian control; but after the Six-Day War between Israel and neighbouring Arab states in 1967, Israel gained control of Gaza and has kept effective control of the Strip ever since. The Gaza Strip and the West Bank, including East Jerusalem, are collectively known as the Occupied Palestinian Territory (OPT), which has been under Israeli military occupation since 1967, despite numerous UN Security Council Resolutions calling for the withdrawal of Israeli forces to pre-1967 borders.

In September 2005, Israel withdrew from its military bases in Gaza and removed some 8,000 illegal settlers under its unilateral disengagement plan.⁸ Israel claims that this brought an end to its occupation

- 1 While the State of Israel refers to its army as the Israeli Defence Forces (IDF), several Palestinian human rights organisations, as represented by the Palestinian Human Rights Council, of which DCI-Palestine and Al Mezan are members, refer to it as the Israeli Occupation Forces (IOF), given that it is an occupying army in the OPT. However, for the purposes of this report, Israeli forces are referred to as 'Israeli military', 'Israeli forces', and the 'Israeli army'.
- 2 Al Mezan, *Cast Lead Offensive in Numbers* (14 Jun. 2009): www.mezan.org/upload/8941.pdf (accessed 3 Sept. 2009).
- 3 Al Mezan and DCI-Palestine each individually investigated and documented all 353 child fatalities. Both organisations are certain that in each of these 353 cases, the evidence that the children died as a result of Israeli military actions is conclusive. In addition to the 353 fatalities, DCI-Palestine documented a further three child fatalities and Al Mezan documented a further two child fatalities. These additional five cases potentially bring the child fatality figures to 358. However, in these five additional cases, either DCI-Palestine or Al Mezan did not find conclusive evidence that they died solely as a result of Israeli military actions. The additional two cases documented by Al Mezan are as follows: Ayham Karam Akram Eid (3 months) died on 16 April 2009 after being born prematurely when his mother went into early labour immediately after an Israeli attack near her home; and Kristine Wadea At-Turk (16) died on 2 January 2009 after suffering cardiac arrest immediately after a shelling attack near her home. The three cases documented by DCI-Palestine are as follows: Ali Iyad Qarmut (1) died on 27 June 2009 after inhaling white phosphorous fumes during Operation Cast Lead. He had a pre-existing heart condition; Mustafa Nihad Abu Seedo (1) died on 30 December 2008 after inhaling dust which settled in his house following a nearby attack; and Mohammed Akram Miqdaad (17) died on 20 January 2009 after inhaling white phosphorous in a UXO incident on 17 January 2009. See also section 3.3.
- 4 This figure is based on daily Al Mezan fieldworkers' visits to Gaza hospitals during Operation Cast Lead (see Al Mezan Press Release, IOF Unilaterally Ceases Fire: Redeploys inside Gaza (18 Jan. 2009). www.mezan.org/en/details.php?id=1497&ddname=gaza%20destruction&id_dept=9&id2=9&p=center (accessed 6 Sept. 2009).
- 5 UN Office for the Coordination of Humanitarian Affairs (OCHA), *Gaza Strip Population Density* (Jan. 2009): www.ochaopt.org/gazacrisis/admin/output/files/ocha_opt_gaza_crisis_population_density_2009.pdf (accessed 6 Sept. 2009).
- 6 UNRWA in Figures (as of 31 Dec. 2008): www.un.org/unrwa/publications/pdf/uif-dec08.pdf (accessed 6 Sept. 2009).
- 7 UNICEF, General Factsheet on the oPt (Feb. 2009): www.unicef.org/oPt/General_fact_sheet.pdf (accessed 6 Sept. 2009).
- 8 Israeli Ministry of Foreign Affairs (MFA), *Revised Disengagement Plan* (6 Jun. 2004): www.mfa.gov.il/MFA/Peace+Process/Reference+Documents/Revised+Disengagement+Plan+6-June-2004.htm (last accessed 20 Jun. 2009); Israel MFA, *Evacuation of Israeli Civilians from the Gaza Strip Completed*: www.mfa.gov.il/MFA/Government/Communiques/2005/Evacuation+of+Israeli+civilians+from+the+Gaza+Strip+completed+22-Aug-2005.htm (accessed 20 Jun. 2009).

of Gaza, and its corresponding legal obligations. This argument has been widely rejected by legal experts because Israel still retains effective control of Gaza's borders, airspace and territorial waters, as well as the population registry, its telecommunications, energy supplies, and water and sewerage systems, and all movement of people and goods in and out of the territory, including shipments of fuel, food and medical supplies⁹.

1.2 Blockade and increasing isolation and suffocation of Gaza

In January 2006, Hamas, a religious and political Islamist organisation with a military wing, won the Palestinian parliamentary elections and Israel and the international community responded by boycotting the new Hamas-led government. The boycott prevented the government from receiving international aid and Israel refused to transfer tax revenues that it collected on behalf of the Palestinian Authority (PA).

Since the 2006 elections, Israel has applied increasingly restrictive measures affecting Gaza's economy. Despite prior agreements between Israel and the PA, after the elections, Israel prohibited all commercial export through Karni crossing and severely restricted imports, precipitating shortages of basic foodstuffs and medical supplies.¹⁰ Erez crossing remained closed to Palestinians who held jobs in Israel causing further economic hardship to families. The economic siege intensified with the Hamas takeover of Gaza in June 2007, following which Israel kept the border crossings hermetically sealed, allowing only minimal humanitarian goods and supplies to enter the territory.

The economic blockade has accelerated the economic collapse of Gaza. At the date of publication of this report, it is in its 27th month. Since June 2007, when the siege began, raw materials have rarely entered the territory¹¹, and imports and exports have been almost totally halted, resulting in the drastic cessation of formal business enterprises. Israeli restrictions continue to hinder the rebuilding of crucial infrastructure within Gaza such as sewage treatment plants.

In September 2007, Israel officially declared Gaza a '*hostile entity*' - a categorisation unknown in international law - to justify further sanctions. The government introduced policies tightening restrictions on supplies of food, fuel and electricity, with periods of total blockade. On 5 November, Israel imposed a near-total blockade of Gaza. Consequently, UNRWA was forced to halt distribution of its food aid to approximately one million dependent men, women and children for two weeks (18-31 December 2008).¹²

Since June 2007 Israel has pursued a policy of isolation and suffocation of the Gaza Strip while, allegedly, making sure to avoid a humanitarian crisis. An Israeli official reportedly described this policy off-the-record as "*no prosperity, no development, no humanitarian crisis*".¹³ The spokesperson for Israeli Prime Minister Binyamin Netanyahu has stated that he is unaware of this phrase.¹⁴ The economic siege has had a devastating effect on the lives of the residents of Gaza and amounts to collective punishment, prohibited by the *Fourth Geneva Convention*, because all inhabitants of Gaza are being indiscriminately punished for acts they did not individually commit.¹⁵

9 A territory is considered occupied when a foreign armed force has 'effective control' over it. See section 2.2.

10 OCHA, *Gaza Strip: Situation Report* (31 Jan. 2006): www.ochaopt.org/documents/ochaSR_Gaza310106.pdf (accessed 6 Sept. 2009).

11 UN, Report No. 87 *Implementation of the Agreement on Movement and Access and Update on Gaza Crossings 4-17 March 2009*, (17 Apr. 2009): www.ochaopt.org/documents/ocha_opt_access_movemnet_reportno87_english.pdf (accessed 6 Sept. 2009).

12 UNRWA Press Release, *UNRWA suspends food distribution in Gaza* (18 Dec. 2008): http://www.un.org/unrwa/news/releases/pr-2008/gaz_18dec08.html (accessed 15 Sept. 2009), and UN Press Release, *Highlights of developments in the U.N. system* (31 Dec. 2008): <http://unispal.un.org/unispal.nsf/59c118f065c4465b852572a500625fea/013709121aa73f478525753000660a49?OpenDocument> (accessed 15 Sept. 2009).

13 Heather Sharp, BBC News, *Scant Movement on Gaza Blockade* (16 Jun. 2009): http://news.bbc.co.uk/2/low/middle_east/8101002.stm (accessed 6 Sept. 2009).

14 Ibid.

15 Article 33 of the *Fourth Geneva Convention* (1949) stating: "No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited... Reprisals against protected persons and their property are prohibited."

1.3 Overview of recent Israeli military attacks in Gaza from 2005 to 2009

In addition to Israeli policies of economic closure and blockade, Israel has repeatedly battered Gaza with regular military incursions and several large scale offensives since 2005. Following Israel's 2005 unilateral disengagement from Gaza, especially after Hamas rose to power, Israel has engaged in military operations characterised by the use of indiscriminate and disproportionate force during which the civilian population, protected under international law, has suffered the heaviest toll.

After the disengagement (September 2005 - September 2006)

Periods of heightened violence followed Israel's 2005 disengagement, with Israeli forces carrying out frequent air strikes, artillery shelling and land levelling in areas within several hundred metres from the border with Israel. In the year following Israel's disengagement from Gaza, Palestinian resistance groups fired at least 1,700 Qassam rockets into Israel, injuring 41 Israelis. During the same period, Israeli forces fired approximately 15,000 artillery shells and carried out more than 550 air strikes on Gaza, killing 525 Palestinians and injuring 1,527.¹⁶

Operation Summer Rains (28 June - September 2006)

In the period leading up to the offensive, 9-21 June 2006, Israeli air strikes in Gaza claimed the lives of ten Palestinian children, six of whom were aged five years and under.¹⁷ On 25 June 2006, Palestinian factions captured an Israeli soldier in a cross border attack on an Israeli military post near the Kerem Shalom crossing on the southern Gaza border. In response, two days later, the Israeli army initiated a major military offensive code-named Operation Summer Rains, with the stated aim of suppressing Palestinian rocket-fire into Israel and rescuing its soldier. On the first day of the attack, Israel bombed and destroyed Gaza's only power station and closed the Nahal Oz fuel pipeline, threatening the integrity of back-up power systems as well as water supplies and sanitation networks. Three months after it began, Operation Summer Rains left 256 Palestinians dead and 848 more wounded.¹⁸ A total of 58 children were killed during the operation.¹⁹

Operation Autumn Clouds (1-7 November 2006)

In November 2006, Israel conducted yet another military offensive, codenamed Operation Autumn Clouds, with similar stated aims. Israeli troops besieged the town of Beit Hanoun in northern Gaza during a six-day operation, which ended with the withdrawal of troops on 7 November. In the early morning hours of 8 November, as Israeli forces retreated, troops fired approximately 12 artillery shells hitting a row of five houses, killing 19 civilians, including seven children, almost all of them from a single family.²⁰ By the time a ceasefire had been agreed on 26 November 2006, Operations Summer Rains and Autumn Clouds had claimed the lives of over 400 Palestinians.²¹ DCI-Palestine confirmed a total of 85 Palestinian children killed during this period.²² Five Israeli soldiers were killed, one in a friendly fire incident.²³

At its third Special Session convened on 15 November 2006, the Human Rights Council adopted a Resolution expressing its "shock at the horror of Israeli targeting and killing of Palestinian civilians in

16 OCHA, *Gaza Situation Report* (9 Nov. 2006): www.ochaopt.org/documents/OCHA_Gaza_Situtaion_Report_8_nov_2006_eng.pdf (accessed 6 Sept. 2009).

17 OCHA, *Situation Report: Escalation in Conflict in the Gaza Strip* (27 Jun. 2006): www.ochaopt.org/documents/Gaza%20Strip%20OCHA%20sitrep_27June06.pdf (accessed 6 Sept. 2009).

18 OCHA, *Gaza Strip Situation Report* (10 Oct. 2006): www.ochaopt.org/documents/GazaStrip_10Oct06.pdf (accessed 6 Sept. 2009).

19 DCI-Palestine, *Gaza Under Attack: Child deaths and injuries by date*: www.dci-pal.org/english/Display.cfm?DocId=506&CategoryId=11. (accessed 9 Jun. 2009). This figure does not include children who were killed while involved in hostilities.

20 *Beit Hanoun: Civilians without Protection* (2006) (Arabic): www.mezan.org/upload/2434.pdf. (accessed 6 Sept. 2009); Al Mezan Press Release, *Al Mezan Welcomes HRC Resolution* (16 Nov. 2006): www.mezan.org/en/details.php?id=1851&ddname=IOF%20crimes&id_dept=9&id2=9&p=center (accessed 6 Sept. 2009); DCI-Palestine, *Names of Children Killed on 08 November 2006* (1 Jan. 2007): www.dci-pal.org/english/doc/statistics/Child.cfm?id=39029&st=k (accessed 6 Sept. 2009).

21 OCHA, *Protection of Civilians Monthly Tables*, www.ochaopt.org/poc/POC_Monthly_Tables_October_2008.zip (accessed 20 Jun. 2009).

22 DCI-Palestine, *Gaza Under Attack: Child deaths and injuries by date*.

23 Israeli MFA: www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/IDF_soldiers_killed_Operation_Cast_Lead.htm (accessed 6 Sept. 2009).

Beit Hanoun” and establishing a high-level Fact-Finding Mission to provide recommendations for the protection of civilians and means for accountability.²⁴ Israel refused to facilitate the mission’s access to the Gaza Strip, and the delegation, led by Archbishop Desmond Tutu, ended up travelling to Beit Hanoun via Egypt in January 2008. They completed their mission in May 2008.²⁵ At present, none of the report’s recommendations have been implemented and victims of the attack remain without recourse to protection, reparations and accountability.²⁶

Intensified blockade and military attacks (January 2008)

In January 2008, in the context of the tightening of the economic blockade of the Strip and consequent mounting number of rocket attacks,²⁷ Israel carried out a campaign of increased military offensives which reached its highest level of intensity between 15-18 January, during which three children were killed. Concurrently, Israel closed all Gaza crossings between 18-21 January, thus preventing the passage of all food, medical or fuel supplies. European Union, UN and international NGOs’ condemnations of Israel’s sanctions as illegal collective punishment failed to provoke a change of policy. In January 2008, seven Palestinian children were killed and 27 injured in Israeli attacks.²⁸

Operation Warm Winter (27 February - 2 March 2008)

A month later, Israel conducted another large-scale military campaign, Operation Warm Winter, in an increasingly battered and impoverished Gaza Strip. Once again Israel’s stated aim was to stop long-range Grad rocket and short-range Qassam rocket attacks on the cities of Ashkelon and Sderot. In only five days, 33 children were killed and over 60 injured as a direct result of Israeli air and ground attacks.²⁹ One Israeli civilian was killed in Sderot by rocket fire from the Gaza Strip on 27 February 2008.³⁰

Ceasefire amidst continued siege (19 June - 19 December 2008)

In June 2008, Hamas and Israel agreed to an Egyptian-brokered six-month ceasefire agreement. Throughout the ceasefire, Israel continued to impose a harsh blockade on Gaza and carry out raids in the West Bank, despite a significant decline in Palestinian rocket and mortar fire into southern Israel during this same period (See Graph 1 below). On 4 November 2008, the Israeli army broke the lull in violence by launching an incursion into Gaza killing six members of Hamas and destroying civilian property in Gaza’s Middle Governorate.³¹ Hamas considered this attack to be a major breach of the ceasefire agreement and resumed rocket attacks on southern Israel. On 19 December 2008, following several weeks of retaliatory cross-border attacks, the six-month ceasefire formally expired and Hamas declared it would not renew the ceasefire agreement because Israel had refused to lift the crippling blockade and to halt its military attacks.

24 UN Human Rights Council, *Resolution S-3/1: Human rights violations emanating from Israeli military incursions in the Occupied Palestinian Territory, including the recent one in northern Gaza and the assault on Beit Hanoun* (15 Nov. 2006): www.unhcr.org/refworld/docid/47baec5c2.html (accessed 6 Sept. 2005).

25 UN Human Rights Council, *Report of the High-Level Fact-Finding Mission to Beit Hanoun established under Council resolution S-3/1 - A/HRC/9/26* (1 Sept. 2008): www.unhcr.org/refworld/docid/48cfa3a22.html (accessed 6 Sept. 2009).

26 Report of the Secretary-General, *Human Rights Situation in Palestine and Other Occupied Arab Territories - A/HRC/10/27* (6 Mar. 2009): www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A.HRC.10.27.pdf (accessed 6 Sept. 2009).

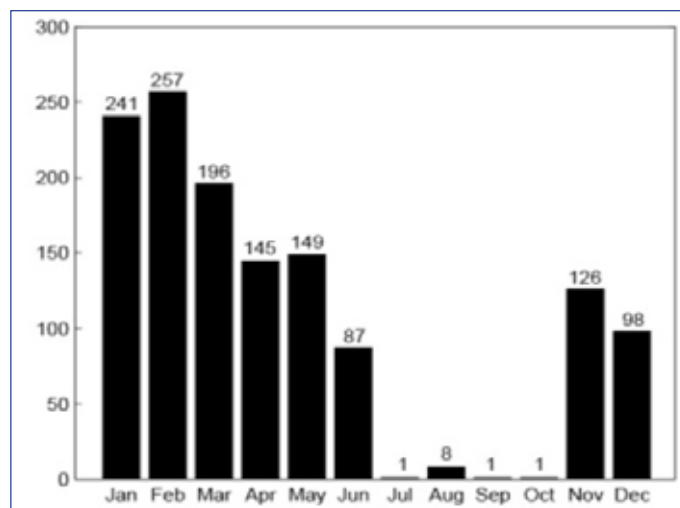
27 OCHA, *Humanitarian Monitor* (Feb. 2008): Table on “Violence and Private Property”: number of rockets launched into Israel, page 8: www.ochaopt.org/documents/Humanitarian_Monitor_Jan_08.pdf (accessed 6 Sept. 2009).

28 DCI-Palestine. These figures include both children killed while involved in hostilities and children not involved.

29 DCI-Palestine, “Gaza death toll rises to 33 children” (6 Mar. 2008): www.dci-pal.org/english/display.cfm?DocId=696&CategoryId=16 (accessed 9 Jun. 2009).

30 OCHA, Protection of Civilians Casualties Database: www.ochaopt.org/poc/index.php.

31 Al Mezan, *IOF Incursion Kills Six, Destroys Civilian Property in Gaza* (5 Nov. 2008): www.mezan.org/en/details.php?id=1547&ddname=IOF&id_dept=9&id2=9&p=center (accessed 6 Sept. 2009).



Graph 1³²: Number of Palestinian rockets and mortar shells fired in 2008

Operation Cast Lead (27 December 2008 - 17 January 2009)

One week later, on 27 December 2008, Israel launched Operation Cast Lead with targeted air and naval strikes followed by a ground invasion amidst continued bombardment from land and sea. On 17 January 2009, Israel announced a unilateral ceasefire which was followed by Hamas' own ceasefire declaration the next day. However, Israeli attacks continued until 18 January.

As of 1 July 2009, Al Mezan had confirmed that 1,409 Palestinians were killed, of whom 1,172 were civilians,³³ as a result of Operation Cast Lead attacks and had verified the physical injury of over 4,000, including 860 children.³⁴ Al Mezan and DCI-Palestine's documentation has confirmed the deaths of at least 353 children.³⁵ During the same period, four Israelis were killed as a result of Palestinian rocket fire, including one soldier, while nine Israeli soldiers were killed in combat, including four in friendly fire incidents.³⁶ According to the Israeli MFA, a total of 336 Israeli soldiers³⁷ were wounded during Operation Cast Lead.

1.4 Child fatalities in Gaza since 2000

From 2000 to 24 December 2008, at least 623 Palestinian children were killed in Gaza as a direct result of Israeli military action.³⁸ Very few of these deaths have been investigated and no Israeli soldier has been held accountable. The number of Palestinian children confirmed killed during Operation Cast Lead represents more than 50 percent of this figure.³⁹

32 Report of the Special Rapporteur on the situation of human rights in the Palestinian Territories occupied since 1967, Richard Falk (A/HRC/10/20), page 8: www.ohchr.org/EN/countries/MENARRegion/Pages/PSIndex.aspx (accessed 6 Sept. 2009).

33 See supra footnote 2.

34 See section 3.3 and supra footnote 4.

35 See section 3.3 and supra footnote 3.

36 Israeli MFA: www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/IDF_soldiers_killed_Operation_Cast_Lead.htm (accessed 6 Sept. 2009).

37 Israeli MFA, *IDF Operation in Gaza: Cast Lead*, www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Terrorism+and+Islamic+Fundamentalism-/Aerial_strike_weapon_development_center+_Gaza_28-Dec-2008.htm (accessed 6 Sept. 2009).

38 DCI-Palestine: www.dci-pal.org/english/Display.cfm?DocId=284&CategoryId=1 (accessed 9 Jun. 2009). This figure does not include children killed while involved in hostilities. Al Mezan documentation corroborates these figures.

39 Ibid.



Women and children sheltering in Gaza Al-Jadida Preparatory School for Boys. Photo credit: Al Mezan

2. International Law

2. International Law

2.1 The law of occupation

International humanitarian law, also known as the law of armed conflict, regulates the conduct of parties during hostilities with a view to limiting the humanitarian effects of conflict. This body of law also regulates the situation where one party to the conflict occupies the territory of another, by imposing certain duties and obligations on the occupying power. The primary source of this law is to be found in the *Hague Regulations* (1907)⁴⁰ and the *Fourth Geneva Convention* (1949),⁴¹ both of which largely codify customary international law.

2.2 Is Israel an occupying power in Gaza?

“Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised.”

Article 42 of the Hague Regulations

In June 1967, Israeli forces entered the West Bank including East Jerusalem and the Gaza Strip heralding the start of a military occupation that continues to this day.⁴² As an occupying power under international humanitarian law, Israel is obligated, as far as possible, to ensure the public order and safety of persons living within this territory.⁴³

After the September 2005 ‘Disengagement Plan’, Israel declared that it was no longer an occupying power bound by the duties and obligations imposed under international law. As Al Mezan argued at the time,⁴⁴ the Disengagement Plan was in fact a *“disingenuous attempt by Israel to relieve itself of its responsibilities as an occupying power while securing its control over the West Bank”* and Gaza⁴⁵. Israel’s contention has been almost unanimously rejected by the international community on the basis that Israel is still in ‘effective control’ of Gaza as it controls the borders, coastline, airspace, economy, telecommunications, energy supplies, and water and sewerage systems.⁴⁶

Israel does not need a fixed armed presence inside Gaza in order to occupy it, provided that it can establish physical control over the territory at any time.⁴⁷ This test of authority is known as the “effective control” threshold, and was endorsed by the United States Military Tribunal at Nuremberg, in the *Hostages* case.⁴⁸ As noted by Gisha, *“Israel’s withdrawal of settlements and its permanent military ground installations from the Gaza Strip did not end Israeli control of Gaza but rather changed the way in which such control is effectuated.”*⁴⁹ Such control is exercised, *inter alia*, by Israel’s ability to assume physical control of the territory “at any time”⁵⁰ (as evidenced by Operation Cast Lead).

40 Regulations Annexed to the *Hague Convention No. IV Respecting the Laws and Customs of War on Land* (1907).

41 *Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (1949).

42 A territory is deemed “occupied” when it, either in whole or in part, falls under the control of foreign armed forces without the consent of the existing government. See Article 42 of the *Hague Regulations*.

43 See Article 43 of the *Hague Regulations*.

44 Al Mezan, *The Legal and Economic Consequences of the Unilateral Disengagement Plan* (Sept. 2005), page 6: www.mezan.org/en/details.php?id=2592&ddname=evacuation&id_dept=24&p=center (accessed 6 Sept. 2009).

45 The ‘Disengagement Plan’ states: “Israel will guard and monitor the external land perimeter of the Gaza Strip, will continue to maintain exclusive authority in Gaza air space, and will continue to exercise security activity in the sea off the coast of the Gaza Strip.” Israeli MFA, *Disengagement Plan: General Outline*, Article 3(i)(1) (18 Apr. 2004): www.mfa.gov.il/MFA/Peace+Process/Reference+Documents/Disengagement+Plan+-+General+Outline.htm (accessed 20 Jun. 2009).

46 In January 2008, at the 5,824th meeting of the UN Security Council, Mr Lynn Pascoe, UN Under Secretary-General for Political Affairs, clearly stated that the Gaza Strip was still occupied by Israel: ‘I must state firmly that the Israeli occupation, including with respect to the Gaza Strip, carries clear obligations under international law.’ See also Gisha, *Disengaged Occupiers: The Legal Status of the Gaza Strip* (Jan. 2007): www.gisha.org/UserFiles/File/Report%20for%20the%20website.pdf (accessed 6 Sept. 2009).

47 Prosecutor v. Naletilic, ICTY Trial Judgement, Case No. IT-98-34-T, ¶ 217.

48 *USA vs. Wilhelm List et al.*, *Law Reports of Trials of War Criminals*, vol. VIII, London: UN War Crimes Commission, 1949.

49 Gisha, *Disengaged Occupiers: The Legal Status of the Gaza Strip* (2009), page 9. www.gisha.org/UserFiles/File/Report%20for%20the%20website.pdf (accessed 7 Sept. 2009).

50 *USA vs. Wilhelm List et al.*, *Law Reports of Trials of War Criminals*, vol. VIII, London: UN War Crimes Commission (1949), page 56.

Residents of Gaza have no control over the airspace above the territory and also require a permit from Israel to go to sea or to operate a boat off the coast. Fishermen from Gaza are now restricted to a zone of operation extending no more than three nautical miles off the coast, which is enforced by the Israeli navy.⁵¹ The ability to open or close Gaza's land crossings⁵² at will and to regulate the entry and exit of all goods, services, and people to and from Gaza also gives Israel effective control over the economy, trade, and movement of persons,⁵³ including those seeking urgent medical assistance abroad.⁵⁴ Another measure of Israel's effective control is the significant influence it exerts over the Palestinian governments' ability to exercise governmental functions. In addition, its control of the West Bank, which together with Gaza constitutes a single territorial unit, also indicates effective control of Gaza.⁵⁵

The combination of a virtual blockade of Gaza and the ability of the Israeli army to enter the territory at will, which has, as of October 2008, resulted in the deaths of 1,297 Palestinian men, women and children since September 2005,⁵⁶ clearly satisfies the requisite test for effective control necessary to establish that Israel is still the Occupying Power in Gaza. This in turn, gives rise to certain duties and obligations under international law.

2.3 Israel's obligations to the residents of Gaza

As the Occupying Power in Gaza and the West Bank including East Jerusalem, Israel owes a number of specific obligations and duties to the resident population under international humanitarian law. Furthermore, the various international human rights treaties⁵⁷ to which Israel is a party are also applicable to the situation in Gaza and impose additional duties and obligations.⁵⁸

Some of the key duties and obligations imposed upon an occupying power under international law are to be found in the *Fourth Geneva Convention*, and include the following:

- The wounded and sick shall receive particular protection and respect;⁵⁹
- Civilian hospitals may in no circumstances be the object of attack;⁶⁰
- Healthcare workers shall be respected and protected;⁶¹
- Protected persons are entitled, in all circumstances, to respect for their persons and shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats⁶², including torture and measures that cause physical suffering;⁶³
- Civilians shall not be used as human shields;⁶⁴

51 OCHA, *Protection of Civilians Weekly Report* (4-10 Mar. 2009): www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_2009_03_10_english.pdf (accessed 7 Sept. 2009).

52 UN, Report No. 87 *Implementation of the Agreement on Movement and Access and Update on Gaza Crossings 4-17 March 2009* (17 Apr. 2009): www.ochaopt.org/documents/ocha_opt_access_movemnet_reportno87_english.pdf (accessed 7 Sept. 2009); and *Agreed Documents by Israel and Palestinians on Movement and Access from and to Gaza*, S366/05 (15 Nov. 2005): [www.reliefweb.int/rw/RWFiles2005.nsf/FilesByRWDocUnidFilename/HMYT-6J7LVN-eu-opt-15nov.pdf/\\$File/eu-opt-15nov.pdf](http://www.reliefweb.int/rw/RWFiles2005.nsf/FilesByRWDocUnidFilename/HMYT-6J7LVN-eu-opt-15nov.pdf/$File/eu-opt-15nov.pdf) (accessed 7 Sept. 2009).

53 OCHA, *Humanitarian Monitor May 2009*, www.ochaopt.org/documents/ocha_opt_humanitarian_monitor_2009_05_15.pdf. (accessed 7 Sept. 2009).

54 United Against Torture, *Torture and Ill-Treatment In Israel & the Occupied Palestinian Territory, Annual Report* (2007), pages 58-60: [www.unitedagainsttorture.org/assets/uat-%20english%20part%20\(2\).pdf](http://www.unitedagainsttorture.org/assets/uat-%20english%20part%20(2).pdf) (accessed 7 Sept. 2009).

55 See supra footnote 49.

56 OCHA, *Protection of Civilians Monthly Tables*, www.ochaopt.org/poc/POC_Monthly_Tables_October_2008.zip (accessed 20 Jun. 2009).

57 Israel has ratified the International Covenant on the Elimination of All Forms of Racial Discrimination (1965) (CERD) (ratified in 1979); the International Covenant on Civil and Political Rights (1966) (ICCPR) (ratified in 1992); the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966) (ratified in 1992); the Convention on the Elimination of All Forms of Discrimination against Women (1979) (CEDAW) (ratified in 1991); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) (CAT) (ratified in 1991); and the Convention on the Rights of the Child (1989) (CRC) (ratified in 1991).

58 International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, 9 July 2004, paragraphs 109, 112 and 113.

59 Article 16.

60 Article 18.

61 Article 20.

62 Article 27.

63 Article 32.

64 Article 28.

- Civilians shall not be subjected to collective punishment, intimidation, pillage, and reprisals;⁶⁵
- Food and medical supplies shall be provided to the population if necessary;⁶⁶
- Medical and hospital establishments and services in the occupied territory shall be maintained by the occupying power;⁶⁷
- Relief schemes must be facilitated by all means at the disposal of the occupying power;⁶⁸
- Protected persons should not be forcibly transferred or deported from the occupied territory.⁶⁹

2.4 The right to self-defence⁷⁰

Every state has the right to self-defence under Article 51 of the UN Charter (1945).⁷¹ Israel has sought to rely on the principle of self-defence as justification for its attack on Gaza during Operation Cast Lead. Although illegal and deplorable, Palestinian rocket attacks do not, in terms of scale or effect, amount to an armed attack entitling Israel to rely on this principle. Under international law, self-defence is an act of last resort and is subject to the customary rules of proportionality and necessity.⁷²

The killing of over 1,400 Palestinians, mostly civilians, including at least 353⁷³ children, and the injuring of over 4,000, accompanied by the destruction or damage to schools, mosques, hospitals, houses, UN compounds and government buildings, which Israel has a responsibility to protect under international law, is not commensurate to the threat posed by Palestinian rocket fire.⁷⁴ Far from being an act of self-defence, Operation Cast Lead amounted to an illegal act of aggression.

2.5 Basic principles of the laws of war

Principle of distinction

International humanitarian law is applicable to situations of armed conflict and occupation and therefore governed the Israeli military's conduct in the OPT during Operation Cast Lead. Enshrined in international humanitarian law is the principle of distinction:⁷⁵ at all times, the parties to a conflict must distinguish between civilians and combatants; civilian objects and military objects. Attacks may only be directed at military objects. Under international humanitarian law, the categories of combatants and civilians are mutually exclusive and civilians can only lose their civilian protection when they directly participate in hostilities.

A lawful or legitimate object of an attack can only be a military objective. To qualify as a military objective, (1) the object must be used for a military purpose and (2) its total or partial destruction will result in a definite military advantage.⁷⁶ Both elements must be satisfied before a civilian object, such as a school

65 Article 33.

66 Article 55.

67 Article 56.

68 Article 59.

69 Article 49.

70 For this section, the authors of this report have relied heavily upon an open letter written by prominent international lawyers published in the Sunday Times (11 Jan. 2009), entitled *Israel's bombardment of Gaza is not self-defence - it's a war crime*: www.timesonline.co.uk/tol/comment/letters/article5488380.ece. (last accessed 17 Sept. 2009).

71 Article 51 provides that: Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the UN, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

72 See the International Court of Justice decisions in *Nicaragua*, in *Nuclear Weapons* and in *Wall*.

73 See section 3.3 and supra footnote 3.

74 See *Supra* note 70. As stated in the open letter: In the three years after Israel's redeployment from Gaza, 11 Israelis were killed by rocket fire. And yet in 2005 - 2008 according to the UN, the Israeli army killed approximately 1,250 Palestinians in Gaza, including 222 children. Throughout this time the Gaza Strip remained occupied territory under international law because Israel maintained effective control over it.

75 The principle of distinction is enshrined in customary international law. See Jean-Marie Henckaerts and Louise Doswald-Beck, International Committee of the Red Cross (ICRC) *Customary International Humanitarian Law*, Cambridge University Press, 2005, Rule 1, p. 3.

76 Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, Art. 52(2) (8 Jun. 1977) [*Additional Protocol I*]. Article 52 of *Additional Protocol I* is established as customary international law.

or shelter, can be lawfully targeted. Schools are presumed to be civilian objects without strong evidence suggesting that they are being used for a military purpose.⁷⁷ Where there is no clear evidence that “a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be” a military object.⁷⁸

Principle of proportionality

Even when a school can be considered a military objective, the principle of proportionality must be respected:⁷⁹ the use of force should be in proportion to the threat posed. Where a school or shelter is located in close proximity to an otherwise legitimate target and there is the potential for civilian casualties, the party must refrain from launching an attack, or take measures to spare damage and injury to civilians.⁸⁰

2.6 Accountability

The bombardment of civilian infrastructure during Operation Cast Lead was in violation of international humanitarian law, and in many cases appears to have amounted to grave breaches of the *Fourth Geneva Convention*. Under Article 146 of the Convention, state parties have an obligation to search for persons alleged to have committed, or to have ordered to be committed, grave breaches of the Convention and to prosecute them in their own courts, thereby establishing universal jurisdiction over such crimes.⁸¹ Grave breaches of the Convention are defined in Article 147 and relevantly include the following acts against protected persons and property:

- Wilful killing;
- Torture or inhuman treatment;
- Wilfully causing great suffering or serious injury to body or health;
- Unlawful confinement; or
- Extensive destruction of property not justified by military necessity and carried out unlawfully and wantonly.

It must also be noted that the duty to search for alleged perpetrators of such crimes is an active duty:

“As soon as a contracting party realises that there is on its territory a person who has committed ... a [grave] breach, its duty is to ensure that the person concerned is arrested and prosecuted with all speed. The necessary police action should be taken spontaneously, therefore, not merely in pursuance of a request from another State.”⁸²

The purpose behind the principle of universal jurisdiction is to ensure that there is nowhere to hide for perpetrators of the most serious of crimes. In many countries the domestic laws are already in place to implement the provisions of Article 146, and all that would be required is that each state party to the *Fourth Geneva Convention* exercises the necessary will and devotes the necessary resources to enforce these legal provisions.

⁷⁷ Ibid, Article 52(2).

⁷⁸ Ibid, Article 52(3).

⁷⁹ See supra note 75, page 46.

⁸⁰ *Additional Protocol I*, Art. 57-58.

⁸¹ Universal jurisdiction is based on the premise that certain crimes are so serious that in effect they are crimes against all humanity, and thus should be prosecuted in any court, regardless of where the crime took place.

⁸² ICRC, *Commentary on the Geneva Conventions of 12 August 1949, Volume IV: Geneva Convention relative to the Protection of Civilian Persons in Time of War* (1958).

**In the past nine years,
Israeli military action has
claimed the lives of almost
1,000 children in Gaza;
over a third of these were
killed in just 23 days during
Operation Cast Lead.**



Miriam As-Sinwar (6) after the attack that killed her brother Ahmed (3). Photo credit: Al Mezan.

3. Killing and Maiming of Children and Obstructed Medical Access to Injured Children

3. Killing and Maiming of Children and Obstructed Medical Access to Injured Children

3.1 Summary

During Operation Cast Lead, Israeli military operations resulted in the killing of at least 353⁸³ children and injury of a further 860.⁸⁴ Of these, many were maimed - sustaining limb amputations or permanent disabilities such as loss of sight or hearing. As this section demonstrates, the vast majority of these attacks contravened basic principles of international law. In several incidents, children appear to have been directly targeted, or killed in indiscriminate and reckless attacks; actions which may amount to grave breaches of the *Fourth Geneva Convention*.

3.2 Definitions

Killing	Any action in the context of the armed conflict that results in the death of one or more children.
Fatally injuring	Any action in the context of the armed conflict that causes an injury resulting in death.
Maiming	Any action that causes a permanent or disabling injury.
Injuring	Any action that causes an injury requiring medical treatment.
Obstructed medical access	Actions which obstruct the search for and evacuation and delivery of the wounded and killed.

The killing, maiming, or injuring of civilians in disproportionate or indiscriminate attacks not justified by military necessity constitute unlawful acts that amount to violations of the right to life and grave breaches of the *Fourth Geneva Convention* for which individuals can be held criminally responsible. The right to life is the basis for the realisation of all other rights. It is enshrined in the Universal Declaration of Human Rights, in Article 6 of the International Covenant on Civil and Political Rights (ICCPR), and Article 6 of the UN Convention for the Rights of the Child (UNCRC), treaties that Israel is legally bound to uphold in the territories under its jurisdiction. The obstruction of medical treatment for victims of attacks is a violation of their right to life, and their right to health, enshrined in Article 12 of the International Covenant on Economic, Social and Cultural Rights, and violates Articles 16 and 20 of the *Fourth Geneva Convention*.

3.3 Figures

Operation Cast Lead claimed the lives of more than 1,400 Palestinians⁸⁵, a quarter of whom were children, and injured more than 4,000⁸⁶, one fifth of whom were children.⁸⁷

Al Mezan and DCI-Palestine have each independently confirmed the deaths of 353 children. On the first day of Operation Cast Lead, Israeli aerial strikes killed or fatally injured at least 16 children. By the time the UN Security Council had called for a ceasefire on the evening of 8 January 2009, Israeli military attacks had killed or fatally injured 227 children. From 9 until 18 January, when Israel declared a unilateral ceasefire, Israeli attacks killed or fatally injured a further 123 children and several days after

⁸³ See section 3.3 and supra footnote 3.

⁸⁴ See section 3.3 and supra footnote 4.

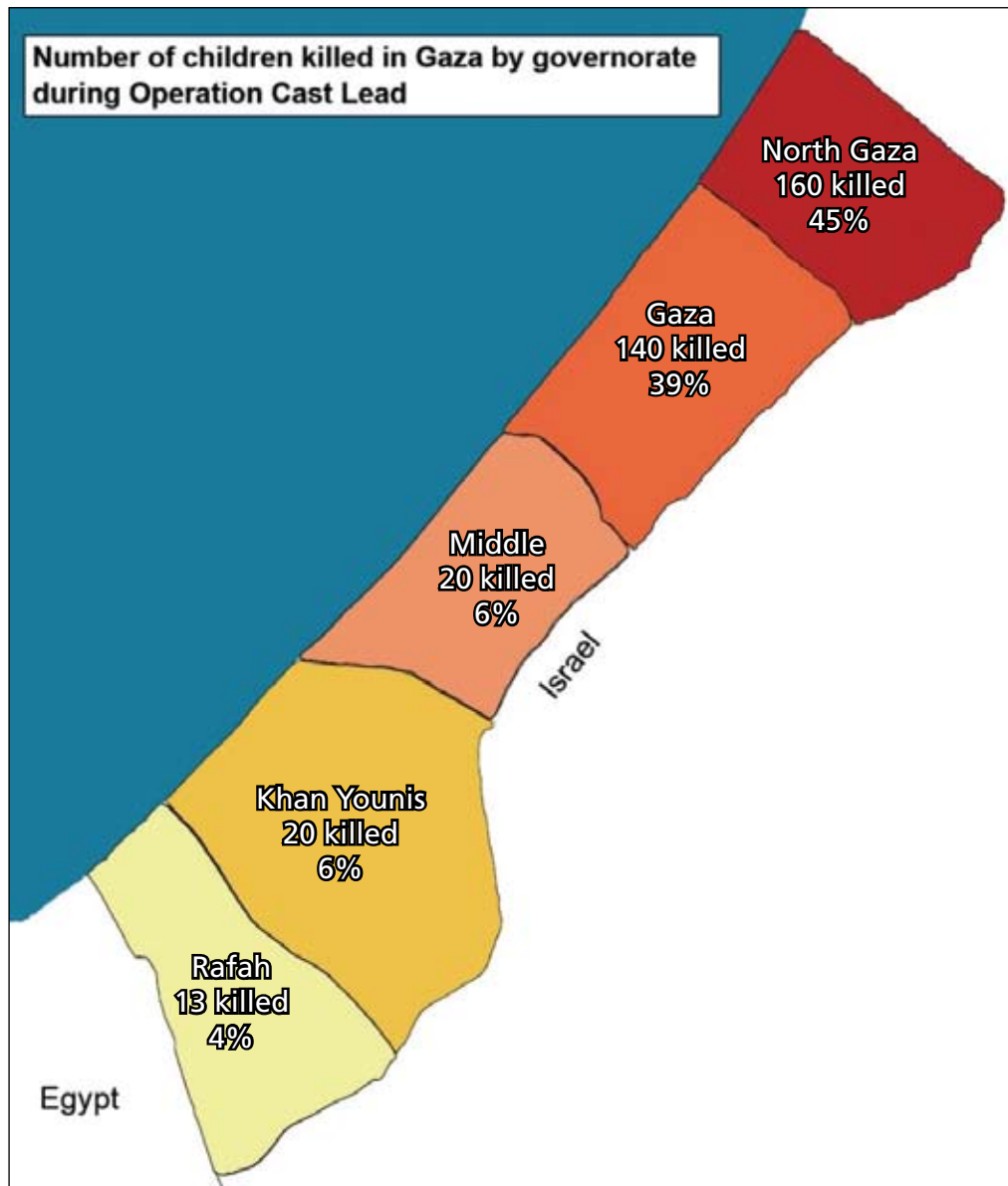
⁸⁵ See supra footnote 2.

⁸⁶ Al Mezan fieldworkers documented and confirmed the injury of 4,009 Gazans through daily hospital visits undertaken during Operation Cast Lead. Among the 4,009 injured were 860 children and 488 women. Al Mezan Press Release, *IOF Unilaterally Ceases Fire: Redeploys inside Gaza* (18 Jan. 2009).

⁸⁷ See section 3.4.

the ceasefire three more children died as a result of unexploded ordnance; bringing the total number of child fatalities at the hands of the Israeli military during and in the aftermath of the 23-day Operation Cast Lead to 353. Thirteen Israelis were killed during the offensive, including three civilians⁸⁸ and four soldiers killed by friendly fire.⁸⁹

In addition, Israeli military attacks injured at least 860 children.⁹⁰ While due to the scale of the attacks it has not been possible to document every incident of child injury, Al Mezan and DCI-Palestine have documented at least five cases in which children were maimed; forced to undergo amputations or sustained permanent disabilities such as loss of sight or hearing. The actual figure may be considerably higher.



88 OCHA Special Focus, *Locked in: The humanitarian impact of two years of blockade on the Gaza Strip* (Aug. 2009), page 12: www.ochaopt.org/documents/Ocha_opt_Gaza_impact_of_two_years_of_blockade_August_2009_english.pdf (accessed 7 Sept. 2009).

89 See section 1.3 and supra footnote 36.

90 See section 1 and supra footnote 3.

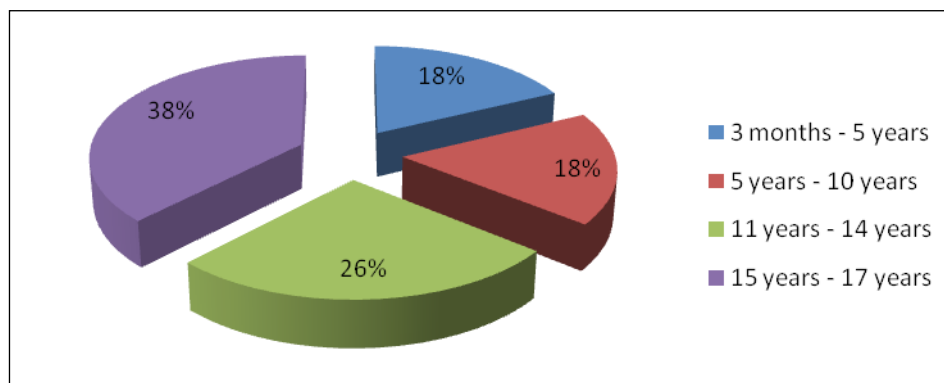


Chart 1: Child fatalities according to age category

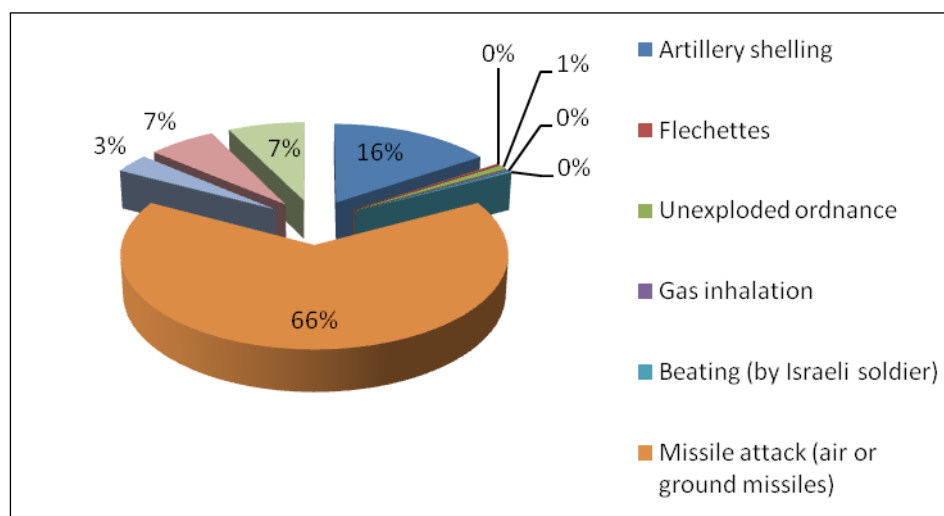


Chart 2: Child fatalities according to method of killing

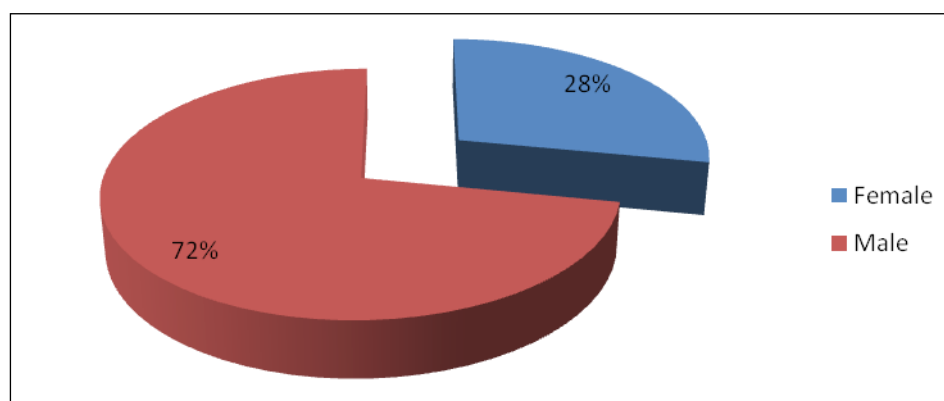


Chart 3: Child fatalities according to gender

3.4 Operation Cast Lead: Facts and stories

3.4.1 Aerial attacks on day 1 of the offensive

At approximately 11.30am on 27 December 2008, in flagrant violation of international law, Israeli warplanes bombed dozens of civilian objects across the Gaza Strip in a surprise attack. Targets included civil defence premises, civil police stations and trade workshops. The timing of the attacks coincided with the mid-day change in school shifts when the majority of Gaza's schoolchildren are either in school or in proximity to their school.⁹¹

⁹¹ The vast majority of Gaza schools operate a shift system with some children attending morning sessions and others afternoon sessions. See Section 5 of this report.

CASE 1

Killed: Ahmed Riyad Mohammed As-Sinwar
 Date of birth: 11 November 2005
 Date of death: 27 December 2008
 Date of incident: 27 December 2008
 Location of incident: Az-Zahra City, Gaza Governorate

Affidavit taken by Al Mezan from⁹²: Dr. Riyad As-Sinwar, Ahmed As-Sinwar's father on 18 January 2009

Three-year-old Ahmed was playing in his garden in Az-Zahra city in Gaza Governorate when the Israeli military launched a series of attacks in the area. The Civil Defence premises near his home were targeted. The Palestinian Civil Defence performs the humanitarian functions of fire and sea rescue, and is a civilian object protected under international law. The Az-Zahra attacks inflicted extensive damage to civilian infrastructure (53 homes damaged and two fully destroyed) and killed three persons including two children.



Miriam As-Sinwar (6) after the attack that killed her brother Ahmed (3)
 Photo credit: Al Mezan

"I found Ahmed under a pile of rubble and stones."

Ahmed's father told Al Mezan: *"At around 11.30am on Saturday 27 December 2008 I was at home on the second floor [of my house] with my wife and my daughters, Aya (11) and Asma' (9). My daughter Miriam (6) had gone to play in the garden with her brother Ahmed (3), and my son Mohammed (14) was at school."*

I heard an explosion which seemed to be far away from the area. A few seconds later I heard a huge blast which shook the whole house and shattered the glass of the windows. Smoke and thick black dust filled the room. I couldn't see. It was really dark because of the dust. I was shocked for a few moments and then I started calling my children to check on them. My wife and my girls, Aya and Asma' responded. I heard Miriam screaming and crying. She was saying, 'I can't find Ahmed.'

I found her [Miriam]. She was crying and shaking. Her face was bleeding and she had thick dust on her face and clothes... at the entrance to the house I found Ahmed under a pile of rubble and stones. I picked him up and saw a hole in the top of his head, about ten centimetre-wide. His brain was visible... His ears were bleeding. He was dead when I picked him up. I ignored that and tried to resuscitate him even though I'm a doctor and I knew he was dead. But as a father I hoped he might still be alive... I was terrified thinking about my son Mohammed who would have been on his way home from school, going past the Civil Defence premises, which are only 40 metres from our house."

Riyad As-Sinwar ran barefoot for around 200 metres and managed to flag down a car to take Ahmed to hospital where medical staff confirmed his death. His other son Mohammed had indeed been injured in the attack. Riyad eventually located him at Shifa Hospital in Gaza City. Mohammed had sustained head injuries and a broken hand; he had been walking by the Civil Defence building on his way home from school at the time of the attack.

92 All testimonies obtained by Al Mezan and DCI-Palestine and published in this report are excerpts from sworn affidavits.

3.4.2 Obstruction of medical access

Throughout Operation Cast Lead, Israeli forces opened fire on emergency teams and ambulance personnel, killing 17 and injuring 50 in the line of duty, and obstructed medical teams as they were attempting to evacuate the injured.⁹³ Al Mezan documentation reveals that at least 258 persons out of the total 1,409 persons killed during Operation Cast Lead died after Israeli forces obstructed medical access in clear violation of international law;⁹⁴ 66 of those victims were children, among them, Faris and Mohammed Hammouda.⁹⁵

CASE 2

Killed:	Mohammed Tal'at As'ad Hammouda
Date of birth:	14 April 1993
Killed:	Faris Tal'at As'ad Hammouda
Date of birth:	8 August 2006
Date of death (both children):	11 January 2009
Date of incident:	11 January 2009
Location of incident:	Tal Al-Hawa neighbourhood, Gaza Governorate
Affidavits taken by:	Al-Mezan from Ihab Hammouda, Mohammed's brother and Faris' half brother and Intisar Hammouda, Mohammed's stepmother and Faris' mother on 23 January 2009.



Mohammed Hammouda.
Source: DCI-PS.



Faris Hammouda.
Source: DCI-PS.

"I carried Mohammed from the hallway to the kitchen...I saw that his hand was torn up, almost cut off, and blood was pouring from it."

Ihab Hammouda (23) used to live in Tal Al-Hawa neighbourhood with his two-year-old daughter Rania, his father, his stepmother Intisar (37), his brother Mohammed (15), his sister Kariman (15) and his half-brother (Intisar's son) Faris (2).

At around 11:00pm on Saturday 10 January 2009, Ihab was woken up by the sound of heavy shooting, explosions and the movement of heavy vehicles in the area. He switched on the radio and heard that the Israeli army had invaded his neighbourhood. At around 1:45am, Ihab, sitting in Kariman's bedroom, was thrown by a huge explosion. He explained to Al Mezan, *"I felt the house shaking and stones, glass and small bits of metal were thrown around the room from the north-facing window... I felt that I'd been hit but I wasn't seriously injured. I checked my daughter Rania, who had been next to me, and saw she was injured in her right ear."*

There were Israeli tanks and bulldozers deployed to the west of their house. The family went to shelter in the hallway. *"We thought it was the safest place,"* Intisar explained to Al Mezan. The Hammouda family home was then hit directly by what they believe was a shell. Ihab explained, *"Suddenly, I heard the sound of a really strong explosion...followed directly by three successive explosions... I felt the house shaking strongly and stones and bits of metal scattered around the house. The dust and smoke increased... I*

93 Al Mezan, *The Targeting of Medical Centers, Ambulance Teams and Civil Defence Teams during Operation Cast Lead* (Mar. 2009). www.mezan.org/en/details.php?id=8569&ddname=gaza%20destruction&id_dept=24&id2=9&p=cente (accessed 9 Sept. 2009).

94 See Section 2 of this report.

95 See supra footnote 93 and Physicians for Human Rights, *Independent fact-finding mission into violations of human rights in the Gaza Strip during the period 27.12.2008 - 18.01.2009* (Apr. 2009). www.phr.org.il/phr/article.asp?articleid=708&catid=42&pcat=42&lang=ENG (accessed 9 Sept. 2009).

couldn't see for a few moments... I heard my brother Mohammed, who was next to me shouting, 'Help me! I've been injured.' I could also hear my [half] brother Faris moaning... as though something had hit him. I gave my daughter Rania to my father and I carried Mohammed from the hallway to the kitchen... I saw that his hand was torn up, almost cut off, and blood was pouring from it." Ihab attempted to bandage Mohammed's hand and then watched his father check on Intisar, "After he had given Rania to my sister Kariman, I saw him pick up Faris. I looked into his eyes and saw he was crying and tears were running down his face... my father gave me a sign not to speak and I understood from it that Faris had died."

Ihab's father then tried to call an acquaintance called Imad who works at the ICRC. Intisar explained to Al Mezan, *"My husband said that the Red Cross had told him that the area was a closed military zone and that they were prohibited from coming to us... by orders of the Israeli army."* Despite this, Ihab's father kept calling Imad, local radio stations and friends and neighbours to beg for help. The family was trapped for several hours. Ihab explained, *"Me, my brother [Mohammed] and my sister Kariman sat in the kitchen. I could see my brother Mohammed lying on the floor bleeding... my stepmother [Intisar] stayed where she was lying on the ground because my father couldn't pick her up because of her injuries... I was holding Rania in my arms. She was terrified... My sister Kariman became hysterical, she was crying and moaning loudly and looking at my brother Mohammed lying on the ground... she couldn't stop crying."*

The family then heard their neighbour Talal Abu Sam'an's house being demolished. *"I felt that the bulldozers were going to... demolish the house over our heads,"* Ihab told Al Mezan. Ihab's father called Imad at the Red Cross again. Imad told him to shine a light at the windows to let the Israeli army know that there were people inside the house, which Ihab's father did and then went back to the kitchen. *"We sat in the kitchen watching Mohammed and my stepmother, bleeding... At around 5:00am, we heard my brother Mohammed calling my father. He went to him and I heard him say to my father 'wash my face,' and then he asked my father to forgive him [an expression used by people on their death bed in Gaza]. He held my father's hand and said to him, 'Dad, I love you,' and then he said to my stepmother, 'Mum, forgive me, I love you,' and then Mohammed stopped speaking. My father felt his pulse but couldn't feel anything...he wasn't breathing...my father told me that he'd died."*

At around 7:30am, Israeli forces withdrew from the area. Ihab called the Red Crescent Hospital which is about half a kilometre from their house, and told them to bring an ambulance. The person who took the call told Ihab they were still too afraid to approach the house. Ihab went on foot to the hospital and persuaded an ambulance driver to go back to the house with him. The family was taken to Shifa Hospital where Faris and Mohammed were pronounced dead.

Intisar explained to Al Mezan, *"I went into a severe state of depression because I'd lost my only son; I'd waited for 21 years before getting pregnant."*

Similarly, two members of the Al-Err family, including 17-year-old Feda', died as a result of protracted obstructed ambulance access. The family was attempting to flee air strikes when their house was shelled. Five family members were killed in total in the attack, including three children.



Families preparing to flee their homes in the Khan Younis governorate. Photo credit: Al Mezan

CASE 3

Killed:	Feda' Mohammed Musa Al-Err
Date of birth:	22 July 1991
Date of death:	4 January 2009
Killed:	Ibrahim Mohammed Musa Al-Err
Date of birth:	31 May 1997
Date of death:	3 January 2009
Killed:	Rakan Mohammed Musa Al-Err
Date of birth:	10 March 2004
Date of death:	3 January 2009
Date of incident:	3 January 2009
Location of incident:	Eastern cemetery, Jabalia, northern Gaza Strip
Affidavits taken by:	Al Mezan and DCI-Palestine from Nahedh Mohammed Musa Al-Err and Mohammed 'Elaian Suleiman Al-'Atawni on 18 April 2009.

"I go to the eastern border every day to graze what is left of our goats, and I stay near our demolished house, remembering my father, siblings and wife."

On 3 January 2009, a week after the start of Operation Cast Lead, the Al-Err family was at home, near Jabalia, 500 metres from the border with Israel, listening to air strikes. At 5:15pm, their barn was hit; the explosion shook the entire house and killed a donkey and several goats. They decided to prepare the donkey cart and go to a relative's house in Jabalia camp.



Nahedh and his stepmother Leila, after the incident.
Photo credit: Ma'an / Al-Err family

The cart was hit while Nahedh (25) and his father Mohammed (48) were preparing it; Nahedh's brother Rakan (4), sister Feda' (17) and wife Iman (26) were on it. The cart flipped upside down and the donkey was killed. Nahedh explained: *"I looked at the donkey cart and saw that it was turned upside down, its wheels in the air and the donkey dead. I looked at my wife Iman and saw her face covered in blood and her eyes wide open. I saw my sister Feda' on the ground about four metres away with her face and back covered in blood. I could not see Ibrahim, Rakan and my father."*

Those who could escaped to a neighbour's house (Mohammed Al-'Atawni), where they called for an ambulance; they carried some of the dead and injured to the house. Nahedh's brother Ibrahim (11) was dead and his body dismembered. Feda' and Iman were injured. Nahdeh was injured in the foot. Mohammed and Rakan could not be found - it was dark and there was no electricity. A fire started in the barn. The Al-'Atawni called again for an ambulance and were told that the ambulance was denied access by the Israeli military. It was 6:00pm and shooting started. Nahedh decided to go to get an ambulance himself, hopping on one leg. He saw one in Al-Jarn and asked them to rescue his family; the ambulance took him to Al-Awda Hospital instead, where he was treated.

In the meantime in the Al-'Atawni house, Feda' died of her injuries on the same day; Iman was bleeding profusely. The families spent the night terrified, listening to the nearby sound of tanks, shelling and shooting. The next day, Iman died at 1:30pm. The families stayed in the house for five days, terrified and without electricity or medical care. They could not escape because of the shelling and shooting

outside. Mohammed Al-'Atawni, the neighbour, told DCI-Palestine that the Al-Err family members were traumatized and could neither speak nor eat.

Nahedh left hospital on 6 January and went to his uncle's house in Beit Lahiya. On 8 January, Israeli bulldozers came and started to destroy the Al-Err and Al-'Atawni houses with people still inside the latter. The survivors managed to leave the house, which was destroyed over the bodies of the dead. They all went to Jabalia.

Both families went back to see their destroyed houses on 18 January, after Israeli troops withdrew from the Gaza Strip. Paramedics recovered the bodies of Ibrahim, Feda' and Iman from under the rubble of the Al-'Atawni house. Rakan's body was also recovered. On 21 January, Mohammed's body was found under the rubble of his house. The bodies were decomposing.

On 18 April, the Al-'Atawni family was still living in tents and the remaining members of the Al-Err family were living in a relative's house in Beit Lahiya. Nahedh told DCI-Palestine: *"I go to the eastern border every day to graze what is left of our goats, and I stay near our demolished house, remembering my father, siblings and wife."*

Article 16 of the *Fourth Geneva Convention* obliges all Parties to the conflict to facilitate the search for the killed and wounded, while Article 20 additionally requires that those responsible to search for wounded civilians be protected.

3.4.3 White flag killings

Human Rights Watch has documented eight incidents during Operation Cast Lead in which groups of civilians were fired on by Israeli soldiers while holding white flags. Eleven civilians including five women and four children were killed in these attacks.⁹⁶ All of these cases were also investigated and documented by Al Mezan and DCI-Palestine. The killing of Suad (9) and Amal (2), and the maiming of Samar (4) is one of these incidents.

CASE 4

Killed:	Amal Khaled Muneeb Abed-Rabbo	
Date of birth:	20 May 2006	
Killed:	Suad Khaled Muneeb Abed-Rabbo	
Date of birth:	6 August 1999	
Date of death (both children):	7 January 2009	
Maimed:	Samar Khaled Muneeb Abed-Rabbo (4)	
Date of incident:	7 January 2009	
Location of incident:	Ezbet Abed-Rabbo neighbourhood, North Gaza Governorate	
Affidavit taken by:	Al Mezan from Kawther Abed-Rabbo (30), mother of Amal, Suad and Samar, on 23 January 2009	

Samar Abed-Rabbo. Source: BBC.

"My daughter Suad and I were waving the white flags at the two Israeli soldiers who were on top of the tank that was parked at the front door, I saw a third Israeli soldier put his head up and then come out from inside the tank. He then fired his gun at us directly."

⁹⁶ Human Rights Watch, *White Flag Deaths* (2009): www.hrw.org/en/node/85004/section/3 (accessed 6 Sept. 2009).

Kawther Abed-Rabbo (30) used to live in Ezbet Abed-Rabbo neighbourhood in the northern Gaza Strip with her husband, Khaled (32), and their five children: three girls - Suad (9), Amal (2) and Samar (4) - and two boys - Ra'fat (8) and Mohammed (9 months). They lived in Khaled's father's house. Kawther told her story to Al Mezan:

"At around 9:00 in the evening on Saturday 3 January 2009, I was at home with my husband, Khaled Abed-Rabbo and my four children, with the exception of Ra'fat who was at my father's house. There was also my husband's family there; around 30 people, out of whom 16 are children. I heard the sound of the movement of Israeli tanks on the eastern side of Ezbet Abed-Rabbo. Then I heard heavy gunfire and the sound of consecutive explosions. I also heard the sound of Israeli jets flying in the sky above the area. I looked out of my window on the second floor, facing east, and I saw a huge number of Israeli army tanks and military vehicles advancing towards Ezbet Abed-Rabbo; from east to west. At that moment, I heard local news stations report the start of the Israeli military ground operation, known as [Operation] Cast Lead."

The family stayed on the ground floor of their house for three days, terrified by the sounds of gunfire and shelling around them. On the fourth day, Kawther heard on the radio that the Israeli army had started allowing people to leave their homes in order to take the wounded to hospital and get food. *"We prepared ourselves to leave the house. It took us around 15 minutes to get ourselves ready. At around 1:45 pm, I heard the voices of Israeli soldiers through loudspeakers ordering the people of the area to leave. They said: 'Leave your houses.' We decided to leave the house carrying white flags. We had the children with us to let the Israeli army know that there were children inside the house. I stepped out with my mother-in-law, Suad Abed-Rabbo, and my daughters, Suad, Amal and Samar and my husband, Khaled. I was carrying a white flag and next to me was my mother-in-law carrying another white flag. I saw my daughter, Suad, carrying a third white flag. Next to her were her sisters, Amal and Samar. Behind them was my husband, Khaled, carrying a white flag. After that, we left the house through the door that is on the western side and overlooks a piece of cultivated land. I saw an Israeli tank parked in front of the door to my house, on the cultivated land, around ten metres away from my house. I saw the tank point the muzzle of its gun towards my house. I saw two Israeli soldiers on top of the tank that had parked in front of my house."*

As soon as we had come out, my mother-in-law, Suad, my daughter Suad and I waved the white flags we had in our hands at the soldiers so that they could see us. The distance between us and the Israeli tank was small and there was no barrier that could interfere with their vision. So the soldiers could see us clearly. We remained standing in front of the front door, facing the tank, waving the white flags at the occupation soldiers for around seven minutes. While Suad [Kawther's mother-in-law], my daughter Suad, and I were waving the white flags at the two Israeli soldiers who were on top of the tank that was parked at the front door, I saw a third Israeli soldier put his head up and then come out from inside the tank. He then fired his gun at us directly. I was terrified at the moment when he shot at us directly."

The three girls and their grandmother Suad had been shot. Kawther and Khaled managed to carry them into the house and then the family started to call for help.

"My husband and I and my family started shouting 'ambulance! ... ambulance!' inside the house... I checked my daughter Suad and saw her internal organs hanging out from her stomach. I saw several holes in her chest and neck. Her eyes were protruding. Her body was yellow. I felt for her pulse and couldn't find it. She wasn't breathing. I then checked my daughter, Amal. I saw several holes in her chest and she was covered in blood but I could hear her breathing. I also saw my daughter, Samar, bleeding heavily from her chest and I saw a large hole in her back and another smaller hole in her chest. She was still conscious and breathing."

The family then heard the siren of an ambulance but it never reached them. They sat in the house shouting and crying for several hours until Khaled's father decided to try to leave the house, carrying Amal. He succeeded in getting permission from the soldiers to leave the house. The Abed-Rabbo family managed to carry the wounded to the house of a neighbour called Abu Sahl, and from there, they started to walk west, carrying the injured and dead. A horse-drawn cart drew close to them to assist them and was fired upon by the soldiers. One of the men on the cart, Adham, was shot in the neck. Eyewitnesses called an ambulance, but it was unable to get close to Adham because the medics were met with heavy fire every time they attempted to approach him. Adham was carried to the ambulance, which then took him to hospital for treatment. He was transferred for treatment abroad and later died. After numerous attempts, the Abed-Rabbo family succeeded in moving the three girls and their grandmother to the hospital separately. There, the deaths of Suad and Amal were officially pronounced and Samar was transferred for treatment abroad, suffering from serious injuries and hemiplegia. She was treated in Belgium alone, without her family, for four months, until her mother secured the necessary documents to join her. She is now quadriplegic.

Following the end of the military campaign, the Abed-Rabbo family returned to their home to find it completely destroyed. According to Al Mezan documentation, a total of 174 homes were completely destroyed in the Ezbet Abed-Rabbo neighbourhood.

3.4.4 Drone attacks

During Operation Cast Lead, the Israeli military killed at least 513 persons with missiles launched from Israeli unmanned aircraft (drones).⁹⁷ Drones have an array of sensors which can provide a clear image in real time of individuals on the ground. They have the ability to distinguish between children and adults and the drone strikes are very precise.⁹⁸ According to Al Mezan documentation, Israeli drones killed or fatally injured at least 116 children during Operation Cast Lead. On the basis of the accuracy of the missiles and the clarity with which drone controllers can see targets, Al Mezan and DCI-Palestine believe that the vast majority of these incidents constitute wilful killing. The killing of Mohammed Iyad Abed Rabbo Al-Astal (11), Abed-Rabbo Iyad Al-Astal (8) and Abed-Sattar Al-Astal (11) is one of these incidents.

CASE 5

Killed:	Mohammed Iyad Abed Rabbo Al-Astal
Date of birth:	2 September 1997
Killed:	Abed-Rabbo Iyad Al-Astal
Date of birth:	27 September 2000
Killed:	Abed-Sattar Al-Astal
Date of birth:	4 April 1997
Date of death (all children):	2 January 2009
Date of incident:	2 January 2009
Location of incident:	Al-Qarara village, Khan Younis Governorate
Affidavit taken by:	Al-Mezan from Mohammed Al-Astal, (28), uncle of Mohammed and Abed-Rabbo, and second cousin of Abed-Sattar, on 21 January 2009

⁹⁷ Al Mezan documentation.

⁹⁸ Human Rights Watch, *Precisely Wrong: Gaza Civilians Killed by Drone Launched Missiles* (Jun. 2009): www.hrw.org/en/reports/2009/06/30/precisely-wrong (accessed 6 Sept. 2009).

"I started to scream from the shock until a number of people from the area came and picked up the body parts of the victims."

Mohammed Al-Astal, a farmer from the urban village of Al-Qarara north of Khan Younis Governorate in the south of the Gaza Strip witnessed the attack on the Al-Astal children on Friday, 2 January 2009. He explained what he saw to Al Mezan:

"At around 2:15pm... I was sitting in front of the Al-'Amada restaurant... by myself and I could see three children, who are relatives of mine: Abed Rabbo Al-Astal and his brother Mohammed are my sister Jawahir's sons; and their cousin, Abed Sattar was with them. They were playing in the entrance to an agricultural road... there were no people or cars in the street. I heard the sound of a huge explosion and I turned to the north and saw smoke in the area where the children had been. I rushed over and when I got close I saw the bodies of the children. I saw one of them without a head. It was Abed Sattar and I saw my sister's son Mohammed was wounded all over his body and especially in his head. Abed-Rabbo was torn into pieces. There was blood all over the place. I started to scream from shock until a number of people from the area came and picked up the victims' body parts. I wasn't able to help them pick up the body parts. Then one of the people brought a car and I picked up the body parts with the other people who were there to take them to the hospital. We drove for around two kilometres until we came across an ambulance which was on its way to the site of the attack. I helped the paramedics pick up the body parts and put them in white bags. Then we went to Nasser Hospital."

3.4.5 Targeted assassinations

"The Government's position was from the outset that if there is shooting at the residents of the south, there will be a harsh Israeli response that will be disproportionate."

Ehud Olmert, Israeli Prime Minister, 1 February 2009⁹⁹

In contravention of international law, the Israeli army has long used an assassination policy dependent on the use of excessive force.¹⁰⁰ In a continuation of this policy, on 15 January 2009, Israeli warplanes dropped two laser-guided 500lb bombs on the house of Iyad Syam, killing seven adults, including Palestinian Legislative Council member and Minister of Interior, Said Syam (50), and three children: Hossam Mohammed Sha'ban Isleem (7), Ahmed Mohammed Sha'ban Isleem (13) and Sahar Isleem (17). This case study illustrates the consequences of this Israeli policy.

⁹⁹ Jeffrey Heller, Reuters, *Israel vows "disproportionate" response to rockets* (1 Feb. 2009): www.reuters.com/article/latestCrisis/idUSL1451625 (accessed 9 Sept. 2009). Also quoted in the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Richard Falk, *Human Rights Situation in Palestine and other Occupied Arab Territories* (A/HRC/10/20).

¹⁰⁰ For further information see Al Haq, *Extra-Judicial Killings: Al Haq's Background Brief on Israel's Extra Judicial Killings in the OPT* (2007): www.alhaq.org/pdfs/Extra-judicial%20killings%20briefing%20by%20Al-Haq.pdf (accessed 7 Sept. 2009) and *License to Kill* (investigative report in Haaretz newspaper) (4 Dec. 2008): www.haaretz.co.il/hasen/spages/1041622.html (accessed 7 Sept. 2009).

Israel's illegal assassination policy through the years

Date:	22 March 2004
Target:	Ahmed Yassin ¹⁰¹
Human casualties:	7 fatalities
Date:	22 July 2002
Target:	Salah Shehada ¹⁰²
Human casualties:	17 fatalities including 8 children
Date:	1 January 2009
Target:	Nizar Rayyan ¹⁰³
Human casualties:	16 fatalities including 11 children ¹⁰⁴
Date:	12 July 2006
Target:	Mohammed Deif ¹⁰⁵
Human casualties:	9 fatalities including 7 children, excluding the target

CASE 6

Killed:	Hossam Mohammed Sha'ban Isleem
Date of birth:	4 December 2001
Killed:	Ahmed Mohammed Sha'ban Isleem
Date of birth:	7 April 1995
Killed:	Sahar Ali Sha'ban Isleem
Date of birth:	17 January 1992
Date of death (all children):	15 January 2009
Date of incident:	15 January 2009
Location of incident:	Al-Yarmouk Street, Gaza City, Gaza Governorate
Affidavit taken by:	Al Mezan from Nabil Isleem (55), uncle of the victims, on 23 February 2009

Nabil Isleem is a tailor. He used to live with his wife and six children on the first floor of a four-storey house in the densely populated Al-Yarmouk Street in the centre of Gaza City. His brother, Ali, and Ali's family lived on the second floor, his brother Sha'ban and Sha'ban's family lived on the third floor, and his brother 'Ala and 'Ala's family were on the fourth floor.

For around two years, the brother of Interior Minister Said Syam had been renting an apartment on the first floor of their house. To the west, their house was bordered by the Qartam family house. On 15 January, Nabil was at home with his wife, Muna (47), and their six children. One of Nabil's brothers, Mohammed (47), was also in their apartment with his family. They had fled to Nabil's house when their neighbourhood, Tal Al-Hawa, had been invaded by the Israeli army.

101 Al Mezan Press Release, 'IOF Assassinate Sheik Ahmed Yassin,' (23 Mar. 2004): www.mezan.org/en/details.php?id=2367&ddname=&id_dept=9&id2=9&p=center (accessed 7 Sept. 2009).

102 Al Mezan Press Release, 'One of Our Biggest Successes: a report concerning the Israeli bombardment of the Daraj governorate of Gaza City on 22 July 2009,' (22 Jul. 2002): www.mezan.org/en/details.php?id=2663&ddname=crimes&id_dept=22&id2=9&p=center (accessed 7 Sept. 2009).

103 Al Mezan Press Release, 'Air Raid Targets Dense Block in Jabalia Killing Nizar Rayyan and 7 People,' (1 Jan. 2009) www.mezan.org/en/details.php?id=1519&ddname=gaza%20destruction&id_dept=9&id2=9&p=center (accessed 7 Sept. 2009).

104 DCI-Palestine, *Cast Lead: F16 Strike Kills 16 Family Members, 11 children*: www.dci-pal.org/english/display.cfm?DocId=1003&CategoryId=1 (accessed 15 Sept. 2009).

105 Al Mezan, *Factual and Legal Briefing on IOF Attacks on Civilian Objects during the June 2006 IOF Incursion of Gaza*, (July 2006): www.mezan.org/upload/2575.pdf (accessed 7 Sept. 2009).

The house was bombed at around 4.15pm that day. Nabil explained to Al Mezan, *"I felt intense air pressure and the house shake. The eastern walls of the flat and the glass windows scattered over our heads. Doors and furniture in the flat also flew into the air... The place was filled with very thick white smoke, dust and rocks. I couldn't see anything. Suddenly, I heard screams from my family and my brother's family from the upper floors. They were shouting, 'Rescue us! Rescue us! Get the walls off us.' I called out to my wife who had been beside me in the sitting room. When she responded I knew she was alive. Then I rushed to my children's bedroom to see my brother Mohammed, his wife [Hala] and their daughter Maram, who had been asleep there. I couldn't see them because of the smoke and dust but I heard Hala [saying], 'Get me out...I'm under the wall...Get me out...I'm choking.'*

I started to shout for people to come and rescue my family. When I got to the staircase to get out of the house and call for help I heard ambulances arriving in the area. I stopped and shouted loudly so they could hear me...The dust was starting to gradually disappear. My brother Ala' came down from the upper floor. He was screaming. He told me that Sahar (16), my brother Ali's daughter, and Iman (20), were under the rubble in Ali's flat on the second floor.

Ala' and I went down to ask for help. As I was leaving the house, I saw a number of civilians and medics enter my house to evacuate the injured and killed... I saw three people stretched out on the ground under the rubble at the entrance to the garage. When I got to them, a number of youths and medics came and helped me remove the rubble. I identified my brother; Mohammed's son Hossam, along with my children Mohammed and Abdullah. They were covered in blood and their bodies were torn to pieces. My son Mohammed's intestines had gushed out and there was a large piece of metal stuck in his abdomen. My son Abdullah's skull was open....I wasn't able to look at my children. I fell on the ground crying, 'My children! My children!'

Nabil watched as medics carried away the injured and dead bodies on stretchers and local youths and medics searched for people under the rubble. When he went to Shifa Hospital to see his family, he saw the dead bodies of his son Mohammed, his 16-year-old niece Sahar, and Iman, Iyad's wife, his brother Mohammed's children Hossam and Ahmed, Said Siyam, Said Siyam's brother Iyad, and Iyad's wife, and a neighbour's son, Ahmed. He was then told that his son Mohammed had bone fractures in his upper and lower jaw, that his son Abdullah had been admitted to the operation room, and his brother Mohammed was also in the operation room. Hala, his brother Mohammed's wife, and her daughter had bone fractures in the pelvis and legs. Nabil's son Abdullah and his brother Mohammed were later transferred to a hospital in Egypt. Abdullah later died from his injuries.

3.4.6 A knock on the roof

"In order to ensure compliance with the IDF's obligation under international law, the IDF invested an enormous effort and huge resources to warn civilians in the Gaza Strip away from harm. The IDF...carried out a special warning shot procedure ('A knock on the roof'), in order to ensure that Palestinian civilians could avoid harm."

Israeli Military investigation into Operation Cast Lead¹⁰⁶

During Operation Cast Lead, the Israeli military started to use a new military tactic known as the 'roof knock'. This is when relatively small ammunition, but strong enough to blast open the roof of a targeted building, is fired by Israeli aircraft as a 'warning message' to the inhabitants giving them a few minutes to evacuate before the building is completely destroyed. Al Mezan and DCI-Palestine documentation indicates strongly that claims that this tactic is intended to ensure civilians avoid harm are inaccurate. The authors of this report have documented several cases in which, after a warning missile was fired,

¹⁰⁶ Israeli MFA: www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/IDF_Conclusion_of_investigations_Operation_Cast_Lead_22-Apr-2009.htm.htm (last accessed 23 Jun. 2009).

residents were stunned and confused, and not immediately aware of the necessity to evacuate. This tactic resulted in the killing of many civilians, including four children from the Salha family, along with two adults.

At approximately 3.15am, an Israeli drone fired a missile that penetrated the roof of the home of Fayiz Salha, located near the Al-Harthani School in Beit Lahiya. The Salha family was hosting relatives who had evacuated their home in the North Gaza Governorate due to Israeli military operations. When the attack occurred, most of the guests left the house with one of Fayiz Salha's sons. The family had decided to split up into two groups fearing that Israeli warplanes would fire at them if they noticed a big group of people walking in the street. About ten minutes later, Israeli warplanes fired a heavy missile at the house identified by a military expert as a GBU-38 500lb GPS-guided JDAM.¹⁰⁷ The missile struck the house as Fayiz Salha's wife, her four children and her sister were walking down the stairs.

CASE 7

Killed:	Diya' Ad-Din Fayiz Nour Salha
Date of birth:	31 August 1995
Killed:	Rana Fayiz Nour Salha
Date of birth:	30 March 1997
Killed:	Baha' Ad-Din Fayiz Nour Salha
Date of birth:	10 April 2004
Killed:	Rola Fayiz Nour Salha
Date of birth:	11 October 2007
Date of death (all children):	9 January 2009
Date of incident:	9 January 2009
Location of incident:	Jabalia town, North Gaza Governorate
Affidavit taken by:	Al Mezan from Noor-Edin Salha (15), brother of the victims, on 23 February 2009

"I still have lots of nightmares picturing the dead bodies of my family. I still live in that moment and I'll never forget it."

"I stayed at home all the time from the start of the Israeli ground invasion of Gaza. It was dangerous to go out while we could hear explosions everywhere. Some of the explosions were quite close and broke the window panes of my house. Some of my aunts and uncles...came to our house temporarily for safety because their house is located near the Islamic Sahwa Society in Jabalia block 8 that was thought to be an Israeli target.

On the night of Thursday 8 January 2009, we were all sleeping inside the house...I woke up because of the sound of a big bang. I thought it was like the many explosions we heard every day but I saw dust coming from my father's office room. When I opened the door of that room, I saw a small hole in the roof, and a similar one in the floor of the room. I called everyone who had already woken up to come and look. My mother called my father on his cell phone who asked her to evacuate the house immediately for fear of another strike. Three minutes later we were ready to go. My mother asked me to get out first with my two uncles, my uncle's wife and my two sisters, Ruba and Rasha. Then she was going to follow us with the rest of the family. She was afraid we'd be shot by the Israeli planes if we went together in one big group.

¹⁰⁷ According to information obtained by Al Mezan from a military expert who visited the locations with Al Mezan's teams in January 2009.

We walked about 100 metres east and were waiting for the others to follow. We kept walking until we reached the financial department in Sheikh Zayed housing project. There, I heard the whistling sound of a moving rocket in the air...I didn't know what to do. I decided to go back to the house. The road was dark and empty. It all happened really quickly. I heard the deafening sound of the rocket and ran as fast as I could to the house. I couldn't see anything except a fire ball and a dark cloud of dust and smoke. I was shocked when I saw the house. It was a huge wreck. Stones and bits of flesh were thrown around everywhere. None of my family members were there. It was really dark and the electricity was off because of the explosion.

I reached what used to be the entrance to our house. My brother Diya'...was lying still on the stairs. I smelled a strange smell and had the strangest feeling I've ever had. I couldn't reach his body because of the rubble...I tried to keep hold of myself and look for the others. I found my mother's body lying a few metres away. My sister Rana was beside her, and on her left side were the bodies of my aunt Fatima and my sister Rola. My brother Baha'...was next to them. I couldn't think what to do. The world seemed to have stopped.

I started screaming and calling for help. My two young uncles who had left the house with me got there first, then a number of neighbours started to gather...I had a strange feeling I don't know how to describe...

At around 4:00am I went back to the place and saw ambulance workers and neighbours looking for pieces of my family members' bodies. I saw them when they found my brother's [Baha'] head near Al-Herthani School and my sister's [Rola] head near the fence of a nearby house. I followed my family to Kamal Odwan Hospital. I was told there that my mother, my aunt and my siblings Diya', Baha', Rana and Rola had all been killed and Rasha was injured...I still have lots of nightmares picturing the dead bodies of my family. I still live in that moment and I'll never forget it."

3.4.7 White phosphorous attacks

"For the first time, I'm seeing strange kinds of burns, very deep to the bone. And they cause a bacterial infection unlike anything else."

Doctor at Shifa Hospital in Gaza Governorate¹⁰⁸

While the use of white phosphorous as a weapon is not banned outright under international humanitarian law, Israel's indiscriminate use of it in densely populated areas constitutes a serious violation of international law. When white phosphorous comes into contact with human flesh it causes painfully intense and deep burns that are hard to extinguish.¹⁰⁹ The white phosphorous can continue to burn down to the bone or poison internal organs.¹¹⁰ Doctors in Gaza initially had difficulty identifying burns caused by white phosphorous and providing adequate treatment to victims.¹¹¹

AI Mezan and DCI-Palestine have documented several incidents in which children were seriously injured or killed by the use of this weapon, six of which are presented below.

¹⁰⁸ As quoted in Human Rights Watch, *Rain of Fire: Israel's Unlawful Use of White Phosphorous in Gaza*, 25 March 2009, p. 1. Available at: <http://www.hrw.org/sites/default/files/reports/iop0309web.pdf> (accessed 7 September 2009).

¹⁰⁹ United Against Torture (UAT) Coalition, *Supplementary Report for consideration regarding Israel's fourth periodic report to the UN Committee Against Torture (CAT)* (Apr. 2009): www2.ohchr.org/english/bodies/cat/docs/ngos/UATSupp_Israel42.pdf (accessed 6 Sept. 2009).

¹¹⁰ Ibid.

¹¹¹ Ibid.

CASE 8

Killed:	Shahd Saadallah Matar Abu Halima
Date of birth:	4 August 2007
Killed:	Hamza Saadallah Matar Abu Halima
Date of birth:	9 August 2001
Killed:	Zaid Saadallah Matar Abu Halima
Date of birth:	17 August 1998
Killed:	Abdel Raheem Saadallah Abu Halima
Date of birth:	25 October 1995
Date of death (all children):	4 January 2009
Date of incident:	4 January 2009
Location of incident:	Beit Lahiya area, North Gaza Governorate
Affidavits taken by:	DCI-Palestine from Yousef, Omar, Nizar, Nabeel and Mahmoud Abu Halima on 19 February, 15 March and 21 March 2009. ¹¹²



Abdel Raheem Abu Halima.
Source: DCI-PS.

On 4 January 2009, white phosphorous shells struck the house of the Abu Halima family in Beit Lahiya (northern Gaza) following the start of Israel's ground invasion. Four siblings, Shahd (1), Hamza (7), Zaid (10) and Abdel Raheem (13) and their father were killed in the explosion and fire that ensued. Another female relative died from her injuries almost three months later in a hospital in Egypt. Several other family members, including their mother, two siblings, Ali (5) and Yousef (15), and a 3-year-old niece, suffered white phosphorous burns.

Mahmoud (20), brother of the child victims, ran out of the house at the moment of the attack and then ran back into the building to try to rescue his family. He explained to DCI-Palestine: *"I filled a bucket with water and poured it on my burning father. The flames grew bigger after I had poured the water on him. Ahmed then brought a blanket and placed it on my father's body. The smoke came out from under the blanket. Ahmed and I dragged my father. I thought I was dragging only my father, but I realized I was dragging Shahd, Abdel Raheem and Hamza in addition to my father. They were all attached to each other,"* he continued. Their father had been decapitated and appeared to be clinging to Shahd, Hamza and Abdel Raheem, their charred bodies glued together.

CASE 9

Killed:	Ahmed Shaher Fayiq Khudair
Date of birth:	20 September 1996
Date of death:	3 January 2009
Date of incident:	1 January 2009
Location of incident:	Al-Atatra neighbourhood in North Gaza Governorate

On 3 January 2009, a white phosphorous shell fell on the house of Ahmed Shaher Fayiq Khudair (12), located in Al-Atatra neighbourhood northwest of Beit Lahiya. Ahmed was severely injured in the head. Ambulances were not allowed to reach him for three days, during which his family provided first-aid for him at home. His condition worsened and his father eventually managed to take him to hospital where he died.

¹¹² See DCI-Palestine, *Cast Lead: Report on the Abu Halima family in Beit Lahiya* (15 Apr. 2009): www.dci-pal.org/english/display.cfm?DocId=1120&CategoryId=1 (accessed 6 Sept. 2009).

CASE 10

Killed: Nansi Sa'eed Mohammed Wakid
Date of birth: 6 August 2008
Date of death: 25 January 2009
Date of incident: 5 January 2009
Location of incident: Az-Zeitoun neighbourhood, Gaza Governorate

At 6.00am on 5 January 2009, Israeli warplanes fired white phosphorous shells at Al-Malalha village in the south of Az-Zeitoun neighbourhood setting alight the house of 5-month-old Nansi. He sustained heavy burns and died twenty days later.

CASE 11

Killed: Jihan Sami Sa'adi Al-Helu
Date of birth: 24 February 1992
Date of death: 18 January 2009
Date of incident: 10 January 2009
Location of incident: Rimal neighbourhood, Gaza Governorate



Jihan Al-Helu. Source: DCI-PS.

At around 1:00pm, a white phosphorous shell hit the house of Sami Al-Helu, near the Al-Amal crossing in Rimal area of Gaza City. The attack injured Jihan Sami Sa'adi Al-Helu (16). She sustained serious burns on her upper and lower limbs and was taken to Shifa Hospital where she died from her injuries on 18 January 2009.

CASE 12

Killed: Iyad Taher Shehadeh
Date of birth: 23 November 1992
Date of death: 12 January 2009
Date of incident: 12 January 2009
Location of incident: Ezbet Abed-Rabbo neighbourhood, North Gaza Governorate

At around 6:00pm, Israeli troops fired smoke shells (believed to be white phosphorous) at Ezbet Abed-Rabbo neighbourhood in the east of Jabalia town. Sixteen-year-old Iyad Taher Shehadeh suffocated to death. Iyad had asthma and doctors pronounced the cause of death as smoke inhalation.

CASE 13

Injured:	Leila Khadr Ar-Rai (7)
Injured:	Akram Khadr Ar-Rai (3)
Injured:	Mohammed Khadr Ar-Rai (3)
Date of incident:	11 January 2009
Location of incident:	Tal Al-Hawa neighbourhood, Gaza Governorate
Affidavit taken by:	Al Mezan from Khadr Ar-Rai (54), grandfather of the three injured children, on 5 February 2009

"I woke up to shooting and shelling as the Israeli tanks invaded Tal Al-Hawa neighbourhood. I saw around six tanks and large bulldozers stationed on the land of Abu Zour, south of my house near the Abu Naifa An-Na'man mosque. I saw several heavily armed soldiers on the ground in the area where the tanks were. I saw a bulldozer demolishing the Hammouda family house [see Case 2] and the Al-Qasas family house...At that moment, I got up and called my sons, Mohammed, Akram and Mousa, and their wives and children, and told them to go down to the ground floor." On 11 January 2009, the Ar-Rai family house, in Tal Al-Hawa neighbourhood (Gaza Governorate) was hit directly by white phosphorous shells. Khadr recounts:

"A shell fell on the staircase from the southeast; it destroyed the eastern wall of the third floor. It then fell on the staircase spreading fire inside the house. It spread fireballs in all directions. I heard my daughters-in-law screaming on the second floor. My son Akram went upstairs to check on his wife and children. He brought them down in the midst of the shooting and shelling. As he brought them down I saw my son Akram, my grandson Mohammed (3), my grandson Akram (3), and my granddaughter, Leila (7), and Akram's wife, Hiba (23). They were injured with deep cavity wounds in their legs and all over their bodies. Then several shells fell on the house and spread into fire balls all over the house. Some of them stuck to the walls. My family and I were terrified. None of us knew what to do. We were trying to leave the house any way we could while the fire balls were still falling above our heads. Then I told my family to leave from the ground floor through a north-facing balcony ... I and my sons and my wife and my daughters-in-law and my grandchildren climbed over a two-metre wall to the Al-Hindi family house. Our house was on fire, all over, and the thick white smoke was increasing. I couldn't see at all and me and my family could smell a really disgusting smell. I felt sick because of it and until today I still feel sick and throw up...I called the civil defence and the Red Crescent to rescue the injured and put out the fire that was escalating. They told me they couldn't reach us because of the Israeli tanks in the area... the house stayed on fire until around 8:00 am the next morning. Then it went out and at around 9:00 am an ambulance came and took the injured to Shifa Hospital. There, the head of the burns unit in the hospital told us that we had third degree burns."

Leila, Akram and Mohammed were hospitalized in Shifa Hospital for 15 days. The doctors there were unable to treat their injuries and they were transferred to a Doctors Without Borders-run hospital for expert care. Due to the large number of injured at that hospital, they were unable to remain overnight and had to travel to the hospital twice daily for treatment over a two-month period. All of the children underwent reconstructive surgery on the disfiguring cavities in their legs and abdomens. The three children are now suffering from sleeping difficulties and bedwetting and are being treated by a psychologist.

Further white phosphorous attacks and their consequences are detailed in section 5.

3.4.8 Children killed while trying to flee to safety

UN Human Rights bodies expressed grave concern about the almost total closure of the Gaza crossings during Operation Cast Lead. As a result, children, women, men and sick and injured persons were unable to flee from harm's way prompting Professor Richard Falk, Special Rapporteur on Human Rights in the OPT to state, *"Refugee denial under these circumstances of confined occupation is an instance of 'inhumane acts' during which the entire civilian population of Gaza was subjected to extreme physical and psychological hazards of modern warfare."*¹¹³

The vulnerable, sick and injured civilians were not only prevented from fleeing Gaza; they were directly targeted - often after sustaining serious injuries - when fleeing their homes to seek safety or take the injured to hospital.



Families fleeing their homes in Gaza City on 9 January 2009. Photo credit: Al Mezan.

¹¹³ See supra footnote 32 paragraph 19.

CASE 14

Killed:	Mohammed Hikmat Matar Abu Halima
Date of birth:	25 April 1992
Killed:	Matar Saad Matar Abu Halima
Date of birth:	24 July 1991
Date of death (both children):	4 January 2009
Date of incident:	4 January 2009
Location of incident:	Beit Lahiya area, North Gaza Governorate
Affidavits taken by:	DCI-Palestine from Yousef, Omar, Nizar, Nabeel and Mahmoud Abu Halima on 19 February, 15 March and 21 March 2009. ¹¹⁴

On 4 January 2009, white phosphorous shells struck the house of the Abu Halima family in Beit Lahiya (northern Gaza) following the start of Israel's ground invasion. Four siblings, aged 1-13, and their father were killed in the explosion and fire that ensued. Several other family members, including their mother, two siblings aged 5 and 15 and a niece aged 3, suffered white phosphorous burns. A relative, Mohammed H, brought a tractor and cart to evacuate the dead and wounded. Mohammed S placed his wife Ghada and daughter Farah (3) in the cart and then climbed in himself. Farah had severe burns on her face, chest, abdomen and legs and her clothes were still smouldering. Mohammed's brothers Mahmoud (20) and Omar (17) were also on the tractor, with the body of their sibling Shahd's (1). Nabeela, a relative, and her two sons Matar (16) and Ali (14), were also on the cart.

On the road, Omar heard someone calling out in broken Arabic, *"Stop you donkey"* and saw three Israeli soldiers standing behind sandbags on the second floor of a nearby house. He also spotted soldiers inside a school, ten metres away, as well as two tanks positioned on the school grounds. Mohammed H stopped the tractor and everyone got off and stood side-by-side on the street. Mohammed S remained on the tractor with his injured wife, daughter and sister. Nabeela recounts what happened next:

"One of the three soldiers standing by the window, only ten metres away from us, started to shoot at us after bringing the weapon up to his right eye. I cannot forget how this soldier looked. He was thin and very tall [...] The soldier shot my son Matar in the chest with several bullets. He also shot Mohammed H in the stomach and pelvis. Mohammed H lowered his hands reaching for his pelvic area. They then fell to the ground. 'The boys are gone!' I kept shouting. [...] I kept shouting and jumping up and down. I raised my hands to let the soldiers know that we are civilians and had no weapons. Why were they firing at us? The firing continued. I was shot in my left shoulder but I didn't feel any pain."

The soldiers then ordered Omar and Mohammed, *"Lift up your clothes."* As Omar lifted his shirt, Nabeela said to him, *"Run, you and Ali so that they won't kill us all."* Omar grabbed Ali and they began to run. The soldiers fired at them, and although they managed to escape, Omar was shot in the right arm. The boys headed south where they found an ambulance which took them to Kamal Odwan Hospital.

Back at the tractor, Mohammed tore off all his clothes, including his underwear, to prove to the soldiers he was unarmed. *"Go,"* ordered the soldier, pointing west to the direction from which they came. *"At this moment, I approached my son Matar to give him one last look,"* recalls Nabeela. *"He was one metre away from me. 'I'm dying, mother' he said, and then lost consciousness. I heard Mohammed H, who was next to him saying 'I don't want to die. Take me with you.' I said to him while crying and unable to comprehend what was happening 'Come, come.' I was only one metre away from him. I tried to bow to grab his hand. 'Can I take them?' Mohammed S asked the soldier. 'Go! Go!' the soldier said,*

¹¹⁴ See DCI-Palestine, *Cast Lead: Report on the Abu Halima family in Beit Lahiya* (15 Apr. 2009): www.dci-pal.org/english/display.cfm?DocId=1120&CategoryId=1 (accessed 6 Sept. 2009).

meaning to move away from them. He began shooting at the ground next to me. One of the bullets hit Mohammed H in the head. I think he died, but I am not sure." Following their ordeal, Nabeela and Mohammed S returned to Al-Atatra on foot. Nabeela carried Farah, while Mohammed trailed behind, carrying his wife. His wife Ghada's condition was deteriorating; she was shivering and had difficulty breathing. Mohammed was forced to leave the body of his sister behind because his wife could not walk on her own. As they walked, Nabeela reported that the soldiers continued to fire bullets at the ground around her feet.

In other cases documented, the Israeli army attacked civilian homes and prevented the survivors from fleeing, leaving them without medical aid, food or water for days.

One of these cases is the attack on the As-Sammouni family home in eastern Az-Zeitoun neighbourhood of Gaza City. On 5 January Israeli forces shelled the house and then refused to allow ambulances to reach the injured for three days. In total, 29 members of this family were killed, including 12 children. Some of them died immediately, and others bled to death over several days or died later at hospital. Israeli troops were stationed just 100 metres from the wounded, failed to assist them, and prevented medical services from rescuing them. When the ICRC was finally able to enter the area three days later, they found surviving children who had been left next to the bodies of their dead mothers for three days.¹¹⁵ This particular incident prompted a rare public rebuke by the ICRC: *"Israeli soldiers posted at a military position some 80 metres away from this house ordered the rescue team to leave the area which they refused to do. There were several other positions of the IDF nearby as well as two tanks...The Israeli military must have been aware of the situation but did not assist the wounded. Neither did they make it possible for us or the Palestine Red Crescent to assist the wounded."*¹¹⁶

CASE 15

Killed:	Alaa' Al-Haddad (13)
Date of death:	15 January 2009
Date of incident:	15 January 2009
Location of incident:	Tal Al-Hawa neighbourhood, Gaza City, Gaza Governorate

On 15 January, Israeli troops invaded Tal Al-Hawa neighbourhood, south of Gaza City. Many civilians tried to flee the shelling and bombing including 13-year-old Alaa' Al-Haddad. Alaa' was killed when the civilian car in which she was trying to flee was bombed by an Israeli warplane at 11:00am on 15 January. Four other civilians were killed in the attack including her parents and her 23-year-old brother.

CASE 16

Killed:	Sondos Sa'eed, 3
Date of death:	28 January 2009
Date of incident:	15 January 2009
Location of incident:	Tal Al-Hawa neighbourhood, Gaza City, Gaza Governorate

At 4.14pm on 17 January 2009, the family of three-year-old Sondos left their house in Jabalia refugee camp in North Gaza Governorate because the house next door had been bombed. As the family was trying to evacuate, their house was shelled. Sondos was seriously injured in the attack and transferred to Egypt where she died on 28 January 2009.

¹¹⁵ Amnesty International, *Israel and Occupied Palestinian Territories: Update of the Briefing to the Committee against Torture* (2009): www2.ohchr.org/english/bodies/cat/docs/ngos/Al_Israel_Gaza42.pdf, page 12 (accessed 6 Sept. 2009).

¹¹⁶ ICRC, *Gaza: ICRC demands urgent access to wounded as Israeli army fails to assist wounded Palestinians* (8 Jan. 2009): www.icrc.org/web/eng/siteeng0.nsf/html/palestine-news-080109?opendocument. (accessed 6 Sept. 2009).

CASE 3

Killed:	Rakan Mohammed Mousa Al-Err, 4
Killed:	Ibrahim Mohammed Mousa Al-Err, 11
Killed:	Feda' Mohammed Mousa Al-Err, 17
Date of death (all children):	3 January 2009
Date of incident:	3 January 2009
Location of incident:	Tal Al-Hawa neighbourhood, Gaza City, Gaza Governorate

On 3 January, the Al-Err family tried to flee their home on a donkey cart. Relatives explained later to Al Mezan that the family was trying to reach relatives in Beit Lahiya to escape the fighting. They were hit by an Israeli missile which killed five members of the family including Rakan (4), Ibrahim (11) and Feda' (17), and their father. Five others were injured. Israeli bulldozers destroyed a house over some of the bodies of those killed.

3.4.9 Injuries

The case of the injuring of 15-year-old Falastine T is one of many incidents in which emergency shelters housing the displaced came under attack by Israeli forces. [See section 5 below]. In June 2009, nearly five months after the cessation of Israeli attacks, Al Mezan visited Falastine at her home in Beit Lahiya in the north of the Gaza Strip.

CASE 17

Injured:	Falastine T (15)
Date of injury:	16 January 2009
Date of incident:	16 January 2009
Location of incident:	Beit Lahiya School, North Gaza Governorate
Affidavit taken by:	Al Mezan from Falastine T on 15 July 2009

"I don't know if I'm going to be better, or if I'll ever be able to walk again"

Falastine explained how she and her family were forced to flee to a nearby UN shelter at Beit Lahiya Co-educational School set up to house the displaced on 4 January 2009: *"There was shelling at the front of the house and at the back of the house...we were really scared. On 4 January we decided to go to the school where we thought it would be safer. We ran through the back of the house and made it to the school."* Falastine and her family stayed in the school for ten days in a classroom crammed with around 50 other displaced people. *"I was really scared we wouldn't ever be able to go home. I thought our house would be destroyed while we were away,"* she explained to Al Mezan.

On 16 January the school where they were sheltering was directly hit. *"An airplane fired something at the classroom we were in. I fell over but I couldn't feel anything at first. I couldn't walk and then I saw blood gushing out of my leg. Something went through my leg, from the inside of my calf to the outside. I started screaming."* A relative picked her up and carried her outside where she was taken to the nearby Kamal Odwan Hospital by ambulance. *"They did an operation on me the same day and five*



Falastine, five months after the incident.
Photo credit: Al Mezan.

days later they did another". Six months on, Falastine was still wearing a cast. The bones in her leg are shattered and are failing to fuse. Twice a week she is visited by doctors from Palestinian and international medical organisations. "I have to do one more operation as the bone is not sticking together. I don't know if I'm going to be better, or if I'll ever be able to walk again," she said. Falastine now spends her days sitting at home. Her family can't afford to pay a private car to transport her to school each day.

UPDATE: Falastine T, 31 August 2009

After several months of treatment, Falastine is now able to walk with the aid of crutches although she remains unsteady on her feet. She is still undergoing physiotherapy.

On 1 January 2009, 14-year-old Ayman went out to play with friends. At approximately 3.10pm, Israeli aircraft fired a missile into a group of people as worshippers were leaving a nearby mosque. Fifteen people including five children were injured, including Ayman. Al Mezan spoke to Ayman in June 2009.

CASE 18

Injured:	Ayman A (14)
Date of injury:	1 January 2009
Date of incident:	1 January 2009
Location of incident:	Beit Hanoun, North Gaza Governorate
Affidavit taken by:	Al Mezan from Ayman on 15 June 2009

"I want to get a new thumb."

"I wasn't scared for the first three days. I was going outside and playing like normal," Ayman told Al Mezan. "I went out to get a friend of mine, Karam, to go out and play. I stayed for a few minutes at his house then went to play marbles on the street with my friends." A few minutes later, Ayman and his friends were hit by a missile. "I saw an apache helicopter. Then I heard a really loud sound, but I didn't see anything. I started to run away from the sound. I'd only gone five or six steps when I heard another explosion. I kept running. I couldn't really hear anything because of the explosion. I stopped at Fakhri Street and I could see my hand was torn up. I couldn't feel anything in my hand but I had pain in my head."



Ayman, five months after the incident. Photo credit: Al Mezan.

At that point, local residents had come out of their homes to see what had happened. They picked Ayman up and ran with him towards the main road, as they knew that ambulances were too afraid to enter the area due to the heavy Israeli armed presence. In hospital, he underwent an operation to amputate part of his right hand. He still has shrapnel in his legs, chest and one of his arms, and burns on his chest. *"I want to get a new thumb. The doctors said it is possible to do this abroad, but they can't send me there and I can't afford to go. I'm still learning how to write again."*

When Ayman had left the room, his mother explained to Al Mezan, *"He still dreams about the attack and is very anxious. He keeps waking up in the middle of the night and he's scared to leave the house. He won't go out at all in the evening."*



Boys playing football in Gaza. Photo credit: Maha Hiti.

4. Human Shields

4. Human Shields

4.1 Summary

The Israeli military continues to use Palestinians, including children, as human shields during ground military operations despite the October 2005 ruling of the Israeli High Court of Justice that banned this practice.¹¹⁷ At least seven children were used as human shields by Israeli troops during Operation Cast Lead. Most of them were subjected to abuse and ill-treatment while detained and were psychologically affected by the experience. After repeated calls from NGOs the Israeli authorities began to investigate the incidents in June 2009 to start investigating the incidents. However, even well-documented incidents rarely lead to indictments and prosecutions.

4.2 Definition

The practice of using human shields involves forcing civilians to directly assist in military operations or using them to shield an area or troops from attack. Both of these circumstances expose civilians to mortal danger. Civilians are usually threatened and/or physically coerced into performing these tasks, most of the time at gunpoint, and are detained by the army for hours, and sometimes days.

Examples of the use of children as human shields by the Israeli military include: compelling them to search bags or houses for people, weapons or explosives; forcing them to carry messages or orders to Palestinian individuals suspected of being involved in hostilities; detaining them inside houses where soldiers have taken military positions, so that Palestinian fighters will refrain from firing at the soldiers; and making them stand near, or walk in front of, soldiers during confrontations to literally shield them from gunfire and/or stone-throwing - sometimes soldiers fire over the shoulders of the children detained in this way.

4.3 Prohibition under international law

The forced recruitment of children for participation in hostilities breaches Article 2 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children and Armed Conflict (OPAC) - ratified by Israel in 2005 - which prohibits States Parties from compelling any under 18-year-old to serve in their armies.

Furthermore, this practice contravenes Article 28 of the *Fourth Geneva Convention* which states that “The presence of a protected person may not be used to render certain points or areas immune from military operations.” In addition, Article 51 of the same Convention prohibits the occupying power from compelling civilians “to undertake any work which would involve them in the obligation of taking part in military operations.”¹¹⁸ The prohibition is further emphasised in Article 51(7) of the *First Additional Protocol to the Fourth Geneva Convention* which states that: “Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations.” This position reflects customary international law. Under the *Rome Statute of the International Criminal Court*, the use of civilians as human shields constitutes a war crime.¹¹⁹

¹¹⁷ *Adalah versus Military Commander of the West Bank* (HCJ 3799/02) (6 Oct. 2005): www.adalah.org/features/humshields/decision061005.pdf (accessed 6 Sept. 2009).

¹¹⁸ Article 147 of the *Fourth Geneva Convention*, defines “compelling a protected person to serve in the forces of a hostile Power” as a “grave breach” of the Convention, entailing individual criminal responsibility.

¹¹⁹ Under Article 8(2)(b)(xxiii) of the *Rome Statute of the International Criminal Court*, the use of human shields is a war crime: “Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations.” Although Israel has yet to join the 108 nations that have ratified the Rome Statute, this article does reflect customary international law on the basis of Article 28 of the *Fourth Geneva Convention* and Articles 51(7) and 58(a) of the *First Additional Protocol to the Fourth Geneva Convention* - See International Committee of the Red Cross (ICRC), *War Crimes under the Rome Statute of the International Criminal Court and their source in International Humanitarian Law - Comparative Table* (Oct. 2008): [www.icrc.org/Web/eng/siteeng0.nsf/htmlall/war-crimes-factsheet-311008/\\$File/EN%20-%20War_Crimes_Comparative_Table.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/war-crimes-factsheet-311008/$File/EN%20-%20War_Crimes_Comparative_Table.pdf), page 12 (accessed 15 Sept. 2009).

"States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces."

OPAC, Article 2

4.4 Prohibition under Israeli domestic law

In October 2005, the Israeli High Court of Justice (HCJ) authoritatively ruled¹²⁰ that the practice of using civilians as human shields runs counter to principles contained in the *Fourth Geneva Convention*. On the basis of a fundamental principle of the law of belligerent occupation, namely *"the prohibition of use of protected residents as a part of the war effort of the occupying army,"* and on the basis of a fundamental principle of international humanitarian law, namely *"the duty to distance innocent local residents from the zone of hostilities,"* the court ruled that *"the civilian population is not to be used for the military needs of the occupying army."*¹²¹ The court also ruled that civilians *"are not to be "volunteered" for cooperation with the army. From this general principle is derived the specific prohibition of use of local residents as a "human shield."*¹²² On the same grounds, the ruling also ordered the army to revoke the *"prior warning procedure"*, allowing soldiers to use consenting Palestinian civilians to pass messages to wanted persons - a practice which had resulted in the killing of a civilian.

4.5 Incidents

Despite these prohibitions, Al Mezan and DCI-Palestine documented three cases in which seven children were compelled to assist Israeli troops or used to shield them from attacks. The following stories are case summaries based on affidavits taken directly from the victims.

4.5.1 Al-Atatra - 5-15 January 2009

On 5 January 2009, three brothers and two of their cousins (all boys aged 12-17), as well as at least nine men, were arrested and detained for 3-10 days and used as human shields by a group of Israeli soldiers.

CASE 19

Used as human shields:	'Ala A (15), Ali A (16), Nafiz A (17), Hussein A (12), Khalil A (15)
Date of incident:	5-15 January 2009
Location of incident:	Al-Atatra, North Gaza Governorate
Affidavits taken by:	Al Mezan and DCI-Palestine from Ali and Khalil

"The bullets fired from their rifles flew over our heads and the bullet casings fell on us in the trench. The bullet casings were hot, and the sound of gunfire terrified me." (Ali)

Before 10:00am on 5 January 2009, Israeli soldiers stormed a house in Al-Atatra, northern Gaza, where several families were sheltering from the ongoing air and ground attacks. The soldiers ordered 13 men and boys to exit the building and stand facing the wall outside with their hands up and feet spread apart. The soldiers ordered them to strip to their underwear and then tied their hands together in a human chain. There were four children among them: Ali (16), his brothers Nafiz (17) and 'Ala (15), as well as his cousin Hussein (12).



Ali (left) and 'Ala re-enacting the position in which they were detained, 26 Mar. 2009. Photo credit: DCI-PS.

¹²⁰ *Adalah versus Military Commander of the West Bank* (HCJ 3799/02).

¹²¹ Ibid. Page 12, paragraph 24 quoting Aharon Barak, then the Chief Justice of the HCJ.

¹²² Ibid.

The group was led at gunpoint inside a relative's house where they were blindfolded and held for several hours. Three male relatives, including the boys' cousin Khalil (15), were already being held there. Khalil and his family had been at home when Israeli soldiers burst into their house at 2:00am that day. Khalil was violently interrogated, then held in the house with his uncle and grandfather, while the women and children were sent away to seek refuge in a school.

At least 14 men and boys were detained all day without any food and with restricted bathroom access. The plastic cuffs cut into their flesh. At some point, Hussein started crying from pain and was untied. Nafiz's mobile phone rang and was immediately confiscated; the detainees had no way of communicating with the rest of their families. In the evening, the soldiers led them outside where they stood side-by-side, still blindfolded and tied together. Ali reported hearing a bulldozer and a loud explosion. It seemed the bulldozer detonated a mine. The men and boys stood closest to the site of the explosion with the soldiers behind them. They were all taken back to the house where they stayed until 2:00am on 6 January.

That night, the detainees were made to walk until they fell into a deep trench. The soldiers then tied each one separately with their hands behind their backs. The weather was cold, the ground was damp, and they were wearing light clothes. Khalil reported: *"I was extremely exhausted, to the point that I burst into tears. I begged the soldiers to untie me and allow me to rest for a while, but one of the soldiers kicked my leg with his boots. It was very painful and I cried more and more, but the soldiers did not do anything."* In the morning, Ali asked for some water and was told: *"Shut up"*.

The men and boys were made to sit up in the trench all day without any food, water or blankets. Soldiers surrounded the trench and would occasionally open fire. *"The bullets fired from their rifles flew over our heads and the bullet casings fell on us in the trench. The bullet casings were hot, and the sound of gunfire terrified me."* (Ali). At 2:00am on 7 January they were finally given blankets, but were still forbidden to lean back and rest. *"I felt a lot of pain in my back from sitting in this position and from the extreme cold,"* said Ali.



Ali and 'Ala, enacting the body search, 26 March 2009.
Photo credit: DCI - PS.

The next day, 8 January, at around 6:00am, they were given some bread and canned meat and some water served in an empty can. *"The can was dirty and disgusting. The water smelled like the dirty can, but I drank it because I was very thirsty."* (Ali). The soldiers then forced the detainees to sit in two lines and surrounded them with razor wire. They spent the whole day and night thus, prevented from leaning back, while the soldiers were launching shells. Ali recalled: *"It really terrified all of us. I heard the empty cases of the shells falling nearby immediately after each shell was fired. The shelling was continuous but not consecutive."* At some point, stones were falling into the trench.

Then some soldiers were replaced and a female soldier arranged for the younger boys, including Ali, 'Ala, Hussein and Khalil, to be released. They, along with a group of women and children who had accompanied their male relatives, were ordered to go to Jabalia. The group started heading south, an Apache helicopter flying above them. After about 60 metres a tank started firing bullets towards their feet and above their heads. Petrified, they retreated back towards the trench and took another road, the Apache helicopter flying overhead, firing missiles ahead of them. *"I felt it was striking at us. I fell to the ground several times especially when the missiles were fired because it created a horrifying sound,"* said Ali.

The boys were finally reunited with their families in Gaza Al-Jadida School, used as a shelter. *“They did not know what had happened to us and whether we were alive or dead. I started to cry because I was very happy, especially after seeing my mother.”* Ali had not seen his mother for four days, since he has been taken on 5 January. As for Khalil: *“I saw my mother, grandmother, siblings, and my uncles’ wives and their children. I saw tears in their eyes. I asked them why they were sad, and they told me that my father had been killed.”* Seven days later, Nafiz arrived at the school - he had been detained in Beersheba prison, along with other members of the family.

4.5.2 Ezbet Abed-Rabbo, Jabalia - 5-15 January 2009

On 5 January at noon, Amin S (17) was at home with his family when soldiers came to their house. In the following days Amin, his father and other men were forced to accompany soldiers deploying through the neighbourhood, acting as human shields. They were handcuffed, blindfolded, detained, and beaten on different occasions.

CASE 20

Used as human shield:	Amin S (17)
Date of incident:	5-15 January 2009
Location of incident:	Ezbet Abed-Rabbo, Jabalia, northern Gaza Strip
Affidavit taken by:	DCI-Palestine from Amin on 2 August 2009

“He would point at us to proceed for another few metres. We would crawl for three metres and stop for another half hour.”

On 5 January at noon, Amin (17), his father (43), mother (42), and siblings (aged 2-13) were in their kitchen in Ezbet Abed-Rabbo. Amin’s cousin, Wisam (22), came knocking, handcuffed, and told the family to come out. There were around 40 soldiers in the yard. Amin and his father were handcuffed. About 30 soldiers entered the house to search it.

Shortly after, gunshots were heard, and soldiers took Amin’s father to a nearby house from which they thought the shots had been fired. Then the entire family was taken to the same house; in it were Khaled (43) and Tal’at (42) Abed Rabbo, tied, sitting with their younger sisters. After a while, the women and children were told to carry white flags and go to Salah Ad-Din Street. Amin’s father asked the soldiers to let Amin go with them but they refused.

Amin, his father, Khaled and Tal’at were asked to walk with about 60 soldiers behind them. Amin reports: *“The soldiers went down to the ground and the officer talked to my father and ordered us to get down on our stomachs because we were walking in front of them. We would crawl for three metres. Then the officer would make a sound and point at us to stop crawling as we reached a tree. We would stay under that tree for about half an hour, during which time the soldiers would point their weapons in all directions. One of them was holding binoculars and would look through them. Then, the officer would make a sound and we would look at him. He would point at us to proceed for another few metres. We would crawl for three metres and stop for another half hour. We crawled like this for about 15 metres until around 8:00pm. While we were crawling, the ties around my hands, as well as the ties around Khaled and Tal’at’s hands, grew tighter. My father asked the officer to untie us but he said we had to be patient and wait until the soldier responsible for our ties comes. Blood was swelling my hands. Both my elbows were wounded. I felt a lot of pain but was able to bear it so far.”*

On 6 January, they were taken to a nearby house and allowed to sleep in a room with only two mattresses for four people. Amin, on the floor, could not sleep well. At about 3:30am, they were taken to yet another house ten metres away 50 soldiers were walking behind them. The house was crowded with

more soldiers. On 7 January at noon, soldiers took Amin's father away for two hours. He was forced to open the doors of neighbouring houses and ask residents to leave. Every day the soldiers would take Amin's father away with them and use him for two hours. The detainees were kept in that house for another six days.

On 13 January, at around noon, all of the men, still tied, were blindfolded and told they were being taken to Erez. Wisam was allowed to go home. Amin recalls: *"I felt extremely scared. I thought that they would arrest me and beat me there, while interrogating me, as I heard people saying during previous invasions. I went to the bathroom and washed my face. I became tense. There were about a hundred soldiers inside the house then. I saw pieces of cloth on the floor and assumed they were for blindfolding us. I walked to the door of the room and a soldier stopped me. He blindfolded me and forced me to sit on the stairs."* After walking for about 500 metres they were made to enter two tanks.

Amin reports: *"Dust and exhaust fumes entered the tank and I choked; I had difficulty in breathing. The tank moved for half an hour, during which time a soldier came and started hitting the back of my right shoulder with the barrel of his assault rifle, while my head was between my legs and my hands tied. 'Brother of a whore, you're Hamas. Why do you let Hamas fighters come to you and set ambushes?' the soldier said in correct Arabic with an Egyptian accent. Then, he hit me on the chest with his metal helmet. He stood up and kicked me with his boots on my left leg and I started shouting. He hit the five of us one by one. I was the first one to be hit [...] 'If an officer asked you whether I hit you or not, say no,' the soldier who hit us said to us."*

Later on they were transferred by minibus. Soldiers beat the detainees many times with sticks and Amin started crying. They drove for about one hour to desert-like land and were made to walk; Amin fell to the ground many times. They were searched in a shipping container. Then he was interrogated in a tent for two hours, his hands and feet still shackled. He was slapped repeatedly and punched in the face and abdomen while being asked about his, his father and his neighbours' political affiliation. He was then taken outside with the other detainees and stayed there until 10:00pm. On 14 January Amin was interrogated again: *"'Choose a party,' he said. 'I don't have a party,' I replied. 'You brother of a whore,' he said and slapped me."*

On 15 January, after 1:00pm, there was a roll call and Amin, Tal'at and Fathi among others were taken away. Amin's father stayed behind. After driving for a while, they arrived at Erez; their ties and blindfolds were removed and they were released. It was about 2:00pm. They walked to Jabalia camp, where a relative told Amin that his mother and siblings were at his uncle's house in Jabalia. Amin recalls: *"I entered my uncle's house and started crying because I could not believe that I was finally with my family. All I could think of was my father and kept wondering why the soldiers did not allow him to come back home with me. I stayed at my uncle's house until the end of Operation Cast Lead on 17 January 2009."*

Amin's father was detained for seven months and released on 6 July 2009.

4.5.3 Tal Al-Hawa - 15 January 2009

On 15 January 2009, a 9-year-old boy was ordered to open bags and suitcases at gunpoint. When he struggled to open a suitcase which was locked, he was grabbed by the hair, slapped and slammed against the wall. The soldier then fired at the suitcase to destroy the lock, which terrified him.¹²³

¹²³ This incident was included in the report on Operation Cast Lead of the UN Special Representative of the Secretary-General (SRSG) on Children and Armed Conflict to the 10th Session of the Human Rights Council: www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A.HRC.10.22.pdf (Annex). (accessed 6 Sept. 2009).

CASE 21

Used as human shield: Majed R (9)
 Date of birth: 4 March 1999
 Date of incident: 15 January 2009
 Location of incident: Tal Al-Hawa, Gaza City
 Affidavits taken by: Al Mezan and DCI-Palestine from Majed and his mother



Majed (30 March 2009).
 Photo credit: DCI-PS.

"I thought they would kill me."

At approximately 5:00am on 15 January 2009, Israeli soldiers stormed the ground floor of a residential building in Tal Al-Hawa, Gaza City, while firing live rounds. Approximately 40 men, women and children were sheltering inside. The soldiers separated the men from the women and children and ordered them to strip naked before leading them out of the house one by one.

A soldier approached nine-year-old Majed, who was hiding behind his mother in fear, motioning him to step forward. The boy reported that the soldier then grabbed him by his shirt and pushed him against the wall: *"I thought they would kill me. I became very scared and wet my pants. I could not shout or say anything because I was too afraid."* The soldier was shouting at him in Hebrew, which Majed does not understand.

The soldier motioned at Majed who understood he was being ordered to open all the bags and suitcases in the room and empty their contents. The boy opened the bags one by one as the soldier pointed his gun at him from a distance of 1.5 metres. Shaking with fear, Majed struggled to open one suitcase which was locked. The soldier grabbed him by the hair, slapped him in the face, and slammed him against the wall. He then fired at the suitcase to destroy the lock, grabbed Majed and ordered him to go back to his mother.

The women and children were kept inside the building for five hours. Majed reported that soldiers would scare them for fun by running the red light of their weapons over people's bodies or simulating sounds of explosions. At around 3:00pm, they were told to go to the Red Crescent, holding a white flag, and were released.

The incidents reported above are corroborated by recent testimonies from Israeli soldiers who served during the offensive. The testimonies were collected by Breaking the Silence - an Israeli organisation campaigning against human rights abuses committed by the Israeli military - and published in a booklet on 15 July 2009.¹²⁴ The testimony of an Israeli soldier who served in Gaza during Operation Cast Lead, given below anonymously¹²⁵, provides evidence of the use of civilians as human shields, in violation of the 2005 Israeli HCJ ruling:

Testimony of Israeli soldier

"It was ludicrous to read it and then hear the response of the army spokesperson that the matter was investigated and there are no testimonies on the ground and that the Israeli army is a moral army. It raises doubts about the army spokesperson's responses in general when you know for a fact that these things actually did take place... Sometimes the force would enter while placing rifle barrels on a civilian's shoulder, advancing into a house and using him as a human shield. [...]"

July 2009

¹²⁴ Breaking the Silence. *A New Booklet by Breaking the Silence*, (15 July 2009). www.shovrimshatika.org/oferet/index_e.asp (accessed 7 Sept. 2009).

¹²⁵ Ibid, pages 7-8.

4.6 Child rights violations and long-term consequences

“At around 7:00pm, I started screaming because I was extremely exhausted, to the point that I burst into tears. I begged the soldiers to untie me and allow me to rest for a while, but one of the soldiers kicked my leg with his boots. It was very painful and I cried more and more, but the soldiers did not do anything.”

Khalil (15)

Incidents are always characterised by the temporary detention and wilful physical ill-treatment of unarmed children coerced into assisting Israeli troops. Children interviewed by Al Mezan and DCI-Palestine reported being subjected to the following type of physical and psychological abuse while detained by Israeli soldiers:

- Being slapped repeatedly across the face including while blindfolded;¹²⁶
- Being punched in the face or in the abdomen including while blindfolded;¹²⁷
- Being kicked including while blindfolded;¹²⁸
- Being hit or prodded with a rifle;¹²⁹
- Being handcuffed for several hours with plastic ties that cut into the flesh;¹³⁰
- Being forced to sit in painful positions for over 48 hours;¹³¹
- Being denied food and water for over 24 hours;¹³²
- Being denied bathroom access, or denied privacy while using the bathroom;¹³³
- Being denied adequate clothing in cold weather for at least 24 hours;¹³⁴
- Being dragged for 20 metres and pushed against a wall;¹³⁵
- Being grabbed by the hair;¹³⁶
- Being shouted at and verbally abused;¹³⁷
- Being made to fear being shot and then laughed at;¹³⁸
- Being detained alone in a room for an undetermined number of hours;¹³⁹
- Being threatened with physical violence, including being shot, or imprisoned.¹⁴⁰

Much of the conduct referred to above contravenes either Article 1 (torture) and/or Article 16 (other cruel, inhuman or degrading treatment or punishment) of the *UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984), which Israel ratified in 1991.¹⁴¹

Most of the children who told their stories confessed to being terrified and crying out of fear or pain. Even when they were physically unharmed, it is clear that many of the children detained by Israeli troops and compelled to carry out dangerous military tasks have been psychologically scarred. The extent of the psychological impact of their terrifying experience is of course impossible to assess.

¹²⁶ Khalil (slapped repeatedly); Majed (slapped once).

¹²⁷ Khalil (twice).

¹²⁸ Khalil (kicked in the legs).

¹²⁹ Ali, 'Ala, Nafiz, Hussein and Khalil (prodded with guns while blindfolded).

¹³⁰ Ali, 'Ala, Nafiz, Hussein and Khalil (handcuffed painfully for days, almost without interruptions).

¹³¹ Ali, 'Ala, Nafiz, Hussein and Khalil.

¹³² Ali, 'Ala, Nafiz, Hussein and Khalil (denied food for over 24 hours); Majed (five hours).

¹³³ Ali, 'Ala, Nafiz, Hussein and Khalil (prevented from using a bathroom for five hours); Khalil and Ali (denied privacy when using the bathroom); Majed (prevented from using a bathroom for five hours).

¹³⁴ Ali, 'Ala, Nafiz, Hussein and Khalil (for over 24 hours).

¹³⁵ Majed.

¹³⁶ Majed.

¹³⁷ Majed.

¹³⁸ Majed.

¹³⁹ Khalil (detained in a bathroom for half an hour).

¹⁴⁰ Majed (visually threatened with being killed).

¹⁴¹ The UN Committee Against Torture reviewed Israel's Fourth Periodic Report under the *UN Convention Against Torture* in May 2009 and issued Concluding Observations (CAT/C/ISR/CO/4) (14 May 2009): www2.ohchr.org/english/bodies/cat/docs/cobs/CAT.C.ISR.CO.4.pdf (accessed 6 Sept. 2009).

"I am sometimes ashamed to talk about things in detail with people I do not know. I am also afraid to tell people about the difficult situation I experienced, which I do not like to remember. I don't even talk about it with my mother. I prefer to forget, and sometimes I cry when I remember."

Majed (9)

4.7 Accountability

The 2005 ruling of the Israeli High Court of Justice appeared to demonstrate an intended shift in the policy and practice characterising the Israeli army's use of Palestinian civilians as human shields in military operations. However, as illustrated by Operation Cast Lead violations above, the Israeli army continues to use Palestinian civilians, including children, as human shields, and with near total impunity. Letters of allegations from human rights organisations have so far either remained unanswered, or were typically answered with empty assurances that the incidents would be investigated. To date, little if any attempt at accountability ever followed internal investigations on the use of civilians as human shields.¹⁴² Therefore, although the Israel H CJ has sought to strengthen the legal framework on the army's use of civilians as human shields, there has been little impact on the ground.

That being said, in June 2009, Israeli authorities recently took initial and unexpected steps to respond to civil society allegations on the Israeli army's use of children as human shields during Operation Cast Lead. Following repeated letters sent by Adalah, Al Mezan¹⁴³ and DCI-Israel to the Israeli authorities, the military police investigation branch (Mitsach) requested a meeting with three victims, including one Al-Atatra boy. The victims met Israeli military police investigators at the Erez crossing on 13 July and 23 July 2009. The Israeli authorities refused to allow Al Mezan's lawyer to accompany the victims to the meeting. Adalah, Al Mezan and DCI-Israel are following up on the meeting.¹⁴⁴

"It is unusual for Mitsach to want to meet with victims of human shields incidents. Invariably, the Military Advocate General eventually responds to letters with a declared intention to investigate the alleged incidents. These investigations are internal, conducted by the military itself, and we are seldom informed of their process or outcome."

Rana Asali Adv., Adalah

4.8 Conclusion

The Israeli army continues to use, or seek to use, Palestinian children as human shields and to coerce them into assisting their occupier, in violation of international humanitarian law, international human rights law, and in contempt of the 2005 Israeli H CJ judgment.

The incidents detailed in this chapter constitute serious child rights violations and war crimes and must be comprehensively and impartially investigated with a view to hold individual perpetrators to account. It is also extremely worrying to observe the total inability of the Israeli High Court of Justice to enforce its own 2005 ruling, which offered hope for accountability.

¹⁴² To Al Mezan's and DCI-Palestine's knowledge, no indictment ever followed investigations carried out into human shield allegations. However, according to media reports in October 2007, the Israeli Army's Chief of Staff Gabi Ashkenazi chastised Brigadier General Yair Golan, the outgoing commander of the Israeli forces in the West Bank, and delayed his promotion for at least nine months because under his command, Israeli soldiers had used Palestinians as human shields. See: www.adalah.org/eng/pressreleases/pr.php?file=07_10_28-1 (accessed 6 Sept. 2009).

¹⁴³ Adalah - The Legal Centre for Arab Minority Right in Israel: www.adalah.org/eng. Adalah led a group of seven Israeli organisations that petitioned the High Court of Justice on the issue of human shields in 2002, that eventually led to the 2005 ruling.

¹⁴⁴ Al Mezan, Press Release, "In an Exceptional Step: The Israeli Military Starts an Investigation into Complaints about Using Civilians as Human Shields in Gaza" (Jul. 2009): www.mezan.org/en/details.php?id=9007&ddname=Crimes&id_dept=31&id2=9&p=center (accessed 6 Sept. 2009).

"After the offensive, I have noticed that my children started to have bad, fearful dreams. They wake up scared, crying and, sometimes screaming in a strange way. My son Wisam started to fall unconscious frequently."

Ahmed Salha (30)



Palestinian girls surveying destroyed classrooms in Balqis al-Yaman school. Photo credit: Maja Htjij

5. Attacks on schools and the right to education

5. Attacks on Schools and the Right to Education

5.1 Summary

Education facilities are presumed to be civilian objects and are protected under customary international law whilst the right to education is protected under international human rights law. Despite this, 18 schools were completely destroyed in Operation Cast Lead and over 260 damaged - including five operating as temporary emergency shelters. A UN Board of Inquiry found that the Israeli military acted negligently or recklessly concerning incidents at UN premises, including attacks on or near UNRWA-operated schools.

Al Mezan and DCI-Palestine have documented the killings of 26 children who were either sheltering in schools, on their way to or from school, or near schools. For many children in Gaza, schools are no longer perceived as safe places devoted to learning and playing. In addition, with reconstruction stalled due to the ongoing blockade, children in Gaza continue to face unacceptable schooling standards and conditions, more than eight months after the end of the offensive and already into a new school year.

5.2 Definitions

Schools are civilian objects protected under international humanitarian law.¹⁴⁵ Direct attacks on schools are likely to result in the killing and injuring of children, as well as the destruction or damage of education infrastructure. Thus, such attacks not only compromise children's access to education but may also amount to violations of their right to life, a non-derogable right which Israel is legally bound to uphold in the territories under its jurisdiction.¹⁴⁶

The right to education is enshrined in Article 26 of the Universal Declaration of Human Rights, Article 28 of the UN Convention on the Rights of the Child, and Article 13 of the International Covenant on Economic, Social and Cultural Rights.¹⁴⁷ It is "*an empowerment right*"; the UN Committee on Economic, Social and Cultural Rights defined it as "*both a human right in itself and an indispensable means of realizing other human rights*", including freedom from exploitation and poverty.¹⁴⁸

5.3 Partial or total destruction of schools

The Gaza Strip education system serves upwards of 440,000 children through 383 governmental schools, 36 private schools, and 221 UNRWA schools - some operated on double shifts - in 124 actual buildings.¹⁴⁹

Prior to Operation Cast Lead the education system in Gaza was already severely hindered by the economic blockade. In order to accommodate students, 151 of 351 government schools were operating on two separate shifts because restrictions on the import of construction materials inhibited the repair of existing schools and the construction of additional ones.¹⁵⁰ Approximately 85 percent of UNRWA schools were also operating on two shifts.¹⁵¹

¹⁴⁵ Unless schools are considered a military objective at the time of the attack - See Section 2 of this report.

¹⁴⁶ The right to life is enshrined in the Universal Declaration of Human Rights, Article 6 of the ICCPR, and Article 6 of the UNCRC.

¹⁴⁷ Ratified by Israel in 1991.

¹⁴⁸ UN Committee on Economic, Social and Cultural Rights, *General Comment Number 13* (1999) paragraph 1: [www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/ae1a0b126d068e868025683c003c8b3b?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/ae1a0b126d068e868025683c003c8b3b?OpenDocument) (accessed 15 Sept. 2009).

¹⁴⁹ Association of International Development Agencies (AIDA), *Gaza Blockade: Children and Education Fact Sheet* (28 July 2009): <http://unispal.un.org/unispal.nsf/47d4e277b48d9d3685256ddc00612265/5ef76d3b4ff5563d8525760300464076?OpenDocument>, (accessed 15 Sept. 2009), and Christopher Gunness, Spokesperson for UNRWA (16 Jul. 2009).

¹⁵⁰ UNICEF, *Gaza Crisis: UNICEF oPt External Information Note* (3 Mar. 2009): www.un.org.sy/uploads/UNICEF%20External%20Information%20Note%20Gaza_3%20Mar09-Eng.pdf (accessed 7 Sept. 2009).

¹⁵¹ Save the Children Alliance, *Children of the Gaza Crisis: Education Fact Sheet* (24 Feb. 2009): www.scsmena.org/Alliance%20Gaza%20Child%20Rights%20Fact%20Sheet%20No.10%2026%202%2009.pdf (accessed 7 Sept. 2009).



Girls return to class at Balqis Al-Yaman school after Operation Cast Lead (27 Jan. 2009). Photo credit: Maja Hitij.

According to the Association of International Development Agencies (AIDA) in the OPT, throughout the assault the Israeli military destroyed 18 schools (eight government-run, two private, and eight kindergartens), and damaged at least 260 schools and kindergartens.¹⁵² Six of the eight government schools that were destroyed are in north Gaza; forcing almost 9,000 schoolchildren to relocate to other schools.¹⁵³ Thirty-six out of 124 UNRWA school buildings sustained physical damage; five of these schools were operating as temporary emergency shelters.¹⁵⁴ No UNRWA school operated as a school throughout the 23-day offensive.¹⁵⁵

Additionally, there were reports that the Israeli army targeted and damaged the Ministry of Education, the Gaza Training College, the Gaza Music School, and university buildings.

This extensive destruction of schools cannot be justified by military necessity and violates the *Fourth Geneva Convention* as well as customary international law. A UN Headquarters Board of Inquiry was established to investigate nine incidents where deaths, injuries, and destruction of UN property occurred at UN facilities.¹⁵⁶ The Board concluded that Israel was responsible for the deaths, injuries, and destruction of UN property that resulted from the attacks in Al-Fakhoura and Beit Lahiya.¹⁵⁷

¹⁵² See supra footnote 150.

¹⁵³ Ibid.

¹⁵⁴ Summary by the Secretary-General of the report of the UN Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009, paragraph 109 (15 May 2009) UN Doc. A/63/855-S/2009/250: <http://unispal.un.org/UNISPAL.NSF/b987b5db9bee37bf85256d0a00549525/3800655e522591fd852575cb004ca773?OpenDocument> (accessed 18 Sept. 2009).

¹⁵⁵ Christopher Gunness, Spokesperson for UNRWA in a statement to DCI-Palestine (16 Jul. 2009).

¹⁵⁶ See supra note 154. The Board's report focuses on nine incidents involving UN buildings or property in which death, injury, or damage occurred. The report is an internal UN document and has not been publicly released because much of the contents were shared with the Board in strict confidence. However, the Secretary-General has released a 28-page summary of the report that includes factual findings.

¹⁵⁷ See supra footnote 154 paragraph 93.

5.4 Killing and injury of children

According to Al Mezan and DCI-Palestine documentation, Israeli military attacks targeting schools or alleged military objectives located in close proximity to schools resulted in the killing of at least 26 children in or near one government school, and two UNRWA schools used as civilian shelters. The circumstances surrounding these incidents and the civilian casualties resulting from them demonstrate that the attacks were unlawful and constituted 'wilful killing' of civilians.

5.4.1 Balqis Al-Yaman School, Gaza City - 27 December 2008

At 11:30am on the first day of the assault, Israeli F16 aircraft bombed the preventive security building in Tal Al-Hawa, Gaza City. The time of the strike corresponded to the mid-day change in school-shifts and many children from the nearby Balqis Al-Yaman school were on the street at the time. At least 4 children were killed in the attack, and many others were maimed or wounded. According to data gathered by Al Mezan and DCI-Palestine, the following children were killed almost instantly:

Yahia Ibrahim Farouq Al-Hayek (11)

Mustafa Khadr Saber Abu Ghanima (15)

Hanin Wa'el Mohammed Dhaban (15)

Yasmin Wa'el Mohammed Dhaban (16)



Palestinian schoolgirls return to Balqis Al-Yaman school, Gaza City (27 Jan. 2009). Photo credit: Maja Hitij.

CASE 22

Killed:	Yasmin Dhaban	Hanin Dhaban
Date of birth:	1 April 1992	1 August 1993
Date of death:	27 December 2008	27 December 2008
Date of incident:	27 December 2008	27 December 2008
Location of incident:	Tal Al-Hawa, Gaza City	Tal Al-Hawa, Gaza City
Affidavit taken by:	DCI-Palestine from the brother of the victims on 7 February 2009	

“It was difficult for us to tell my father about the death of his two daughters whom he loved very much. He used to call them every day and laugh with them.”

At around 11:20am on 27 December 2008, members of the Dhaban family were sitting at home, in Tal Al-Hawa in the western part of Gaza City, when F16 aircraft bombed the government security building located 250 metres east. Two sisters, Hanin (15) and Yasmin (16), were taking an exam in Balqis Al-Yaman school located behind the government security building. They were expected home after their exam, between 11:00am - 11:30am. When the family heard the explosions, Aziz (19), their brother, went to look for them:

“Once I opened the door, I looked east at the street and was shocked to see how thick the smoke was, and how huge the rubble was. Smoke and rubble were everywhere. I started to run. Almost everyone was standing in the street. Shouting was heard everywhere. The sound of ambulances grew bigger and bigger. [...] I saw a large number of schoolchildren in their school uniforms running hysterically. Blood covered the faces of some children.[...] I walked for about 15 metres and saw two paramedics carrying a girl. They were about five metres away from me. I looked at them carefully. The girl was wearing a red blouse on top of her school uniform, which was torn off. She was wearing a beige cap, black trousers and white shoes. I rushed towards them because I knew she was my sister. I recognised her by the cap which I had bought for her as a present. [...] It was Hanin.”

Hanin's blouse was ripped and her head was bleeding. Aziz helped the paramedics carry her to Al-Quds Hospital: *“I knew she was dead, but I refused to believe it.”* Aziz left the hospital to look for Yasmin but could not find her on the street or at the school, in Al-Quds Hospital, or at home. Going back to Al-Quds Hospital, he heard from one of the paramedics that some victims had been taken to Shifa Hospital. He headed there:

“At the gate of the morgue, I saw something I would never forget in my entire life. More than 300 bodies were on the paved ground of the yard. The hands of some of these bodies were cut off. Heads were cut off. Some of the bodies were covered in blood and could barely be recognised. Hundreds of people were checking the bodies and looking for a relative. I decided to enter the room. I entered the room with difficulty because of the crowd at the door. There was a piece of paper hanging on the door of one of the cold chambers. ‘A dead girl,’ the paper said. I felt it was my sister. I tried to open the chamber but a police officer stopped me. ‘It’s my sister,’ I shouted at him. He stepped aside and I opened the chamber. And it was Yasmin, wearing a green blouse and beige cap, with her right jaw deviated to the left. Several holes filled her chest. Blood came out of her body. Her clothes were torn off. I could not pull myself together. I rushed out of the room.[...]”

The sisters' bodies were then brought home: *“I did not want to see my mother at this time. She could not pull herself together. She did not know what to say. She looked at me. She was traumatized. She shouted and burst into tears like any other mother saying goodbye to her two dead daughters.[...] I did not know how to inform my father who was in Egypt. [...] It was difficult for us to tell my father about the death of his two daughters whom he loved very much. He used to call them every day and laugh with them, but today we had to tell him that they had died. It was difficult.”*

The sisters were buried the same day at around 2:30pm, without their father who was in Egypt and not able to cross Rafah until 11:30pm.

CASE 23

Killed:	Mustafa Khadr Saber Abu Ghanima
Date of birth:	30 December 1992
Date of death:	27 December 2008
Date of incident:	27 December 2008
Location of incident:	Tal Al-Hawa, Gaza City
Affidavit taken by:	DCI-Palestine from a friend and classmate of the victim on 29 May 2009



Mustafa. Source: DCI - PS.

"I looked to where my friend Mustafa had been. I saw him on the ground"

On 27 December 2008, 16-year-old Yousef and his friend and classmate Mustafa Khadr Saber Abu Ghanima (15), finished their end-of-semester exams at the Nile Secondary School for boys in Tal Al-Hawa. They headed home at about 11:00am.

"One the way back home, Mustafa and I were playing around and kicking everything we found, as if we were playing football. We walked on the street that leads to the government security headquarters to the west. Everything was calm and normal. We reached the east fence surrounding the government security headquarters. Mustafa was on my left. Around 20 boys and girls were walking in front of us and behind us.

Suddenly, I heard an explosion. Huge blocks of concrete started to fall on us. Thick dust filled the street. I did not realize what was going on. I tried to bend over but I felt a stone hitting me in the head. I fell onto the ground. I could not understand what was going on.

I was still lying on the ground, when stones and rubble stopped falling on us. I looked to where my friend Mustafa had been. I saw him on the ground near the northwest fence of the government security headquarters. [...] I could not do anything. I tried to run away but I fell on the ground when I stood up. I looked at my right leg. It was swinging. I could not stand on it. I was not feeling any pain. There was warm blood, and it kept running from my head. [...] I could not stand, so I crawled on my stomach. I crawled for about 10 metres and felt dizzy. I felt exhausted and remained where I was. Then, I heard shouting around me, but could not see who was shouting. "Here's a fatality. Here's an injury. Carry this. Take this."

Yousef then fell unconscious and woke up in hospital: *"At around 10:00pm, I woke up to find myself in the Red Crescent Al-Quds Hospital. I asked my father what had happened, and he said they had bombed the government security headquarters. He said I had been injured in my right leg and had undergone surgery. My head was severely injured as well. I asked about my friend Mustafa and my father said he had been killed in the incident."*

5.4.2 Bir Al-Sabea Secondary School, Rafah City - 27 December 2008

On 27 December 2008, as children were leaving school after exams, the Israeli military bombed Rafah City Hall. The building housed a police station and was located close to Bir Al-Sabea Secondary School for Boys. The school is located in the middle of Rafah City near Rafah Police Station and City Hall, 500 metres east, and the Interior Ministry building, 100 metres away. DCI-Palestine has documented the killing of at least two children who were on their way home from school at that time:

- Ahmed Rasmi Mohammed Abu Jazar (16)
- Mahmoud Majed Mahmoud Abu Nahlah (16)

CASE 24

Killed: Ahmed Rasmi Mohammed Abu Jazar
 Date of birth: 30 June 1992
 Date of death: 27 December 2008
 Date of incident: 27 December 2008
 Location of incident: City Hall building, Rafah City

Killed: Mahmoud Majed Abu Nahlah
 Date of birth: 4 October 1992
 Date of death: 27 December 2008
 Date of incident: 27 December 2008
 Location of incident: City Hall building, Rafah City



Ahmed Abu Jazar. Source: DCI - PS.

Affidavit taken by: DCI-Palestine from a friend and classmate on 15 May 2009

"They were my friends since childhood."

On 27 December 2008, Ali and his friends and classmates Ahmed (16) and Mahmoud (16) finished their first semester exams at around 11:15am. As they were leaving school together, one of Ali's friends, Mohammed, asked Ali to come home with him as he needed some help. Mahmoud and Ahmed left together, and Ali and Mohammed were 20 metres behind them. As they had just passed City Hall, the boys heard huge consecutive explosions. Ali reported: *"Smoke and dust filled the sky as if it had turned into hell. It was a scene beyond description. I unconsciously started to run to avoid the stones that were falling around us."*

Ali rushed home, to let his family know that he was safe, and went to Mahmoud's house. Mahmoud had not come home, so Ali went to the site of the explosion. *"I saw nothing but destruction. I learned that the dead and wounded had been evacuated to hospitals. I returned to Mahmoud's house and waited. While I was waiting, a child, around 12 years old, came and asked me if I was a member of the Al-Nahlah family. 'Here are Mahmoud's notebooks. I found them at the place of the bombardment,' he said before giving me the chance to answer. 'Where is Mahmoud?..,' I wondered. 'He's dead. He was torn to pieces,' the child said and went away."*

Ali rushed to hospital: *"The hospital was crowded with dead and wounded people. I went to the morgue. I asked the supervisor about Mahmoud. 'He's wearing a black jacket,' I said to him. 'Yes, he's here,' he said. 'How about Ahmed Abu Jazar?' I asked. 'Him too, but Abu Nahlah was cut to pieces,' he said. I left the hospital. I burst into tears. I pulled myself together and went back to the house."*



Mahmoud Abu Nahlah.
Source: DCI - PS.

At 5:00pm, Ali went to his friends' houses to offer his condolences. *"They were my friends since childhood. I went back and forth between the two houses until around 9:00pm when I returned to my house. I sat alone in the house."*

At 11:00, a friend came to tell Ali that there had been a mistake at the morgue and that Mahmoud was actually still alive, but critically injured. *"I cheered up a little and prayed for Mahmoud to live."*

In the morning, I rushed to the European Hospital. Mahmoud was transferred to this hospital from Abu Yousef Al-Najjar. [...] His features had completely changed. His face was swollen, as well as his body. His uncle Osama told me that Mahmoud's injury was to the head and he was in critical condition. I stayed in the hospital until around 4:00pm. I went back to Ahmed Abu Jazar's house." On 29 December 2008, Mahmoud was pronounced clinically dead. He was transferred to Egypt for further treatment the next day but died on 31 December.

5.4.3 Al-Fakhoura Elementary School, Jabalia - 6 January 2009

Al-Fakhoura School is one of 37 schools run by UNRWA in Jabalia refugee camp. During Operation Cast Lead, the school was used to shelter displaced civilians who were trying to escape the fighting, or had been ordered to leave their areas of residence by the Israeli military in northern Gaza. UNRWA had provided the Israeli army with the exact GPS coordinates of Al-Fakhoura School.¹⁵⁸ The school was also included on a list of 91 provisional shelters that was communicated to the Israeli military before the start of the offensive.¹⁵⁹ On 5 January, just one day prior to the attack, the school was opened as a shelter for civilians.¹⁶⁰

14 children were killed in the Israeli attack on Al Fakhoura school - 5 of these children were relatives of the same family.

The next day, 6 January 2009 (ten days into the offensive) at around 3:45pm, Israeli tanks shelled the perimeter of Al-Fakhoura school. Shells landed on the road just outside the school and one shell struck the house of the Deeb family nearby. There were no fatalities inside the school, but, 44 people - including 14 children - were killed in the immediate vicinity of the school. Among the dead were 11 members of the Deeb family - five of them children.¹⁶¹

The Israeli military alleged that Palestinian fighters had been firing mortars from the school and that the school was booby-trapped. The UN Board of Inquiry found that *"there was no firing from within the school and no explosives within the school"*.¹⁶² The Board could not establish with certainty whether there had been any firing from the vicinity of the school, but all four witness statements collected by DCI-Palestine indicate that the area was quiet, and that adults and children were going about their daily business (see testimonies below).



Lina Hasan (10), killed in the Al-Fakhoura incident. Source: DCI - PS.

The following 14 children were killed in the shelling in close proximity to Al-Fakhoura school¹⁶³:

Nour Moe'in Shafiq Deeb (3)

Mohammed Ahmed Shaqoura (8)

Asil Moe'in Shafiq Deeb (9)

Lina Abed Al-Meni'm Nafez Hasan (10)

Abdullah Shafiq Abdullah (11)

Esam Samir Shafiq Deeb (13)

Mustafa Moe'in Shafiq Deeb (13)

Bashar Samir Mousa Naji (13)

'Ahed Iyad Quddas (14)

Imad Mohammed Abu Askar (14)

Ibrahim Ahmed Hasan Ma'rouf (14)

Ismail Adnan Hasan Hawila (15)

Mohammed Moe'in Shafiq Deeb (16)

Bilal Hamza Ali Obaid (17)

¹⁵⁸ See supra footnote 154 paragraph 19.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

¹⁶¹ Al Mezan and DCI-Palestine documentation.

¹⁶² See supra footnote 154 paragraph. 22.

¹⁶³ Al Mezan and DCI-Palestine documentation.

CASE 25

Killed: Ibrahim Ahmed Hassan Ma'rouf
Date of birth: 20 May 1994
Date of death: 6 January 2009
Date of incident: 6 January 2009
Location of incident: Near Al-Fakhoura School, Jabalia
Affidavit taken by: DCI-Palestine from Ibrahim's father on 28 April 2009



Ibrahim, when he was younger.
Source: DCI - PS.

"We stayed in the school until 18 January 2009, when we went back to our house... I went back home without Ibrahim, my youngest child."

During Operation Cast Lead, 58-year-old Ahmed Ma'rouf, his wife Ni'ma and children Yousef (21), Khetam (17) and Ibrahim (14), left their house in Ezbet Fadous (Beit Lahiya) to seek refuge in the UNRWA-run Al-Fakhoura school. In the afternoon of 6 January 2009, Ibrahim asked his father for one shekel [\$0.25] to go to the shop across the street.

"I gave him the shekel and remained seated with my neighbours, talking about the bad conditions we were experiencing. Drone planes were hovering in the sky. I could hear them very clearly. It was around 3:45pm. Suddenly, a huge explosion took place in front of the school's main gate. Everyone started to run and flee. I did not know what was going on. I heard three consecutive explosions taking place, followed by another two explosions. I believe all the explosions took place southwest of the school and were caused by missiles fired from the drone planes.

I could not imagine that the massacre would be that horrible. I ran towards the main gate of the school and looked south. I saw more than 200 people on the ground. All of them were either dead or injured. I ran towards the shop opposite the school. I could not believe what I saw. People were on the ground near the school gate until as far as 200 metres away to the south. The ground was covered in blood. I reached the shop and saw my son Ibrahim on the ground. I saw young men coming and quickly carrying him away. I ran after them to check on him and to see whether he was dead or alive. They stopped an ambulance and drove him away. I kept running towards Kamal Odwan Hospital, near the area [...] it was crowded with people. I went to the reception hall and saw dead and injured people on the floor. Beds were crammed with people. I saw my son Ibrahim on the floor. He was not moving. I realized he had died because of his injury.

The next day, I buried my son Ibrahim in Beit Lahiya cemetery. [...] We stayed in the school until 18 January 2009 when we went back to our house, which had been destroyed from inside. I believe Israeli special forces were positioned inside the house. I went back home without Ibrahim, my youngest child."

CASE 26

Killed: Bilal Hamza Ali Obaid
 Date of birth: 5 August 1991
 Date of death: 6 January 2009
 Date of incident: 6 January 2009
 Location of incident: Near Al-Fakhoura School, Jabalia

Injured: Omar Hamzi Ali Obaid
 Date of birth: 17 April 1994
 Date of incident: 6 January 2009

Location of incident: Near Al-Fakhoura School, Jabalia Camp

Affidavits taken by: DCI-Palestine from Omar on 6 July 2009
 and his brother Ahmed on 27 April 2009



Bilal. Source: DCI - PS.

"I felt extremely sad over the killing of the children in my neighbourhood, my friends and brother Bilal whom I loved very much."

On 6 January 2009, three brothers, Omar (14), Bilal (17) and Ahmed (25), finished afternoon prayers in Hawila's rental warehouses. People were praying in the warehouses because they had heard that the mosque was a possible target.

Omar then joined his friends Ismail Hawila (16), Abdullah Abdullah (11), Bashar Naji (13) and Abdullah Baroud (11); they sat near the warehouses, opposite Al-Fakhoura school. Bilal joined some neighbours; they were standing about ten metres away from Omar. Ahmed went home and then met his friend Wael to look for a home for his brother as his house had been destroyed the previous day by Israeli F16s. The street was crowded with neighbours and relatives from Al-Fakhoura neighbourhood, as well as people who had been displaced from other areas and had taken shelter in Al-Fakhoura school.



Omar. Source: DCI - PS.

At about 3:45pm, two huge explosions took place, followed by a third. Ahmed heard someone shouting that his brother Omar was dead; he ran to him through the thick smoke. Omar was not dead, he recalls: *"I felt something pushing me upward and slapping me against the ground in front of the warehouse. I felt a lot of pain in my right leg. I felt it was broken because of the pain. I also felt a lot of pain in my left hand and could not move it. I looked around and could not stand up. I saw Bashar Naji and Ismail Hawila on the ground. They did not move. Ismail Hawila was alive. He tried to stand up but a third explosion hit the same place as the previous two, I assume. At this point, I felt suffocated and could not breathe. I felt extremely dizzy and about to die...I fainted."*

Meanwhile, Ahmed had reached Omar: *"I looked at my brother Omar and saw his right leg, right hand, and chest covered in blood. I immediately picked him up and started running south to the medical relief headquarters, 500 metres away. Omar was in extreme pain and hallucinating. Once I reached the medical relief headquarters, the doctors gave him first aid treatment. They told me he would be fine. I left him and went back to help people. I forgot that my brother Bilal was still there."* [...]

Ahmed then saw two ambulances outside of the medical relief building; he went back to pick up Omar and put him in one of them while he rode in the other: *"We reached Kamal Odwan Hospital and I entered the reception hall. I was surprised to see my brother Bilal on the ground and covered in blood. Both his legs were almost cut off. They were twisted near his body, and the only thing that kept them attached to his body was the skin. The reception hall was crowded with dead and injured people. Most of them were on the ground."*

Omar woke up in hospital three days after the incident. He had sustained multiple injuries in his left hand and his two legs were broken. He was told that his friends Bashar, Ismail, Abdullah Abdullah and Abdullah Baroud had been killed, as well as his brother Bilal. *"I felt extremely sad over the killing of the children in my neighbourhood, my friends and brother Bilal whom I loved very much."*

[\[See update on Omar\]](#)

CASE 27

Killed:	Ismail Adnan Hasan Hawila
Date of birth:	27 December 1993
Date of death:	6 January 2009
Date of incident:	6 January 2009
Location of incident:	Near Al-Fakhoura School, Jabalia Camp
Injured:	Hasan Hawila (12)
Date of incident:	6 January 2009
Location of incident:	Near Al-Fakhoura School, Jabalia Camp
Affidavit taken by:	DCI-Palestine from Ismail's cousin, Hasan, on 28 April 2009



Ismail Hawila. Source: DCI - PS.

"I kept looking around and saw many people on the ground. They all were bleeding. They were cut into pieces. I could not bear the scene. I was in extreme pain. I fainted."

On 6 January 2009, 12-year-old Hasan, Ismail's cousin, was playing marbles with his friends and cousins near his house in Al-Fakhoura after the afternoon prayer. Israeli aircraft, including drone planes, were crisscrossing the sky as he left his home.

"I saw my cousin Ismail Hawila (16), and my neighbours' children Bilal Obaid (17), Bashar Naji (14) and Abdullah Abdullah (11). I also saw my friends Mohammed Shaqoura (9) and Abdullah Baroud (11). They were all playing marbles in the street. I went straight to them to play marbles. The street was crowded with people because most of the residents of Beit Lahiya and Ezbet Abed-Rabbo had taken shelter in schools, including Al-Fakhoura school.[...]"

Suddenly, at around 3:45pm, the explosions took place. Hasan was thrown into the air and fell hard on the ground. His leg was injured and he could not see anything because of the thick smoke. *"I remained lying down with my face against the ground. I waited for about two minutes until the smoke started to fade away. I tried looking behind me to see what had happened. I saw Mohammed Shaqoura near me. His head was bleeding. He was motionless. I looked around hoping I would see somebody and call him to carry me away from the street. I could not move my left leg [...] I kept looking around and saw many people on the ground. They all were bleeding. They were cut into pieces. I could not bear the scene. I was in extreme pain. I fainted. I woke up to find myself in Shifa Hospital. My right leg was in a cast. I felt extreme pain in my left leg. It seemed I underwent surgery on my left leg. I was told that I was admitted to Kamal Odwan Hospital and transferred to Shifa Hospital. But I was not aware of all that."*

I asked my father about the incident, and he told me that I had miraculously survived whereas most of the people who had been in the street at time of the incident were killed."

[\[see update on Hasan\]](#)

5.4.4 Mashrou Boys School, Beit Lahiya, 17 January 2009

Three weeks into Operation Cast Lead, on 17 January 2009, at around 6:00am, the Israeli military started firing artillery shells of white phosphorous over the Mashrou Boys School in Beit Lahiya, north of Jabalia (near Beit Hanoun). On 5 January 2009, the school had been opened as a shelter and by 16 January approximately 1,900 displaced men, women, and children were taking refuge in the school, including 265 children under the age of three.¹⁶⁴ Guards had checked all people entering the school to prevent weapons from being brought onto the premises.¹⁶⁵ The GPS coordinates of the school had been communicated to the Israeli army, and the school was included on a list of 91 provisional shelters which had also been communicated to the Israeli military before the military operation began.¹⁶⁶

According to the UN Board of Inquiry report, some shells exploded above the school, dispersing white phosphorous-impregnated felt wedges into the school. A shell casing crashed through the roof and another one hit an open-air corridor; shrapnel and debris caused by these shells killed two brothers:

- Bilal Mohammed Shihda Al-Ashkar (5)
- Mohammed Mohammed Shihda Al-Ashkar (3)

Thirteen other people were injured in the attack¹⁶⁷ including the children's mother and their eight-year-old cousin Fatima.



Palestinian civilians and medics run to safety during an Israeli strike using phosphorous shells at a UN school. Photo credit: Mohammed Abed/AFP.

¹⁶⁴ See supra footnote 154 paragraph 58.

¹⁶⁵ Ibid.

¹⁶⁶ Ibid. paragraph 57.

¹⁶⁷ See supra footnote 154 paragraph 62 and paragraph 63.

CASE 28

Killed:	Mohammed Mohammed Shihda Al-Ashkar
Date of birth:	20 June 2005
Date of death:	17 January 2009
Date of incident:	17 January 2009
Location of incident:	Mashrou Boys School, Beit Lahiya
Killed:	Bilal Mohammed Shihda Al-Ashkar
Date of birth:	12 October 2003
Date of death:	17 January 2009
Date of incident:	17 January 2009
Location of incident:	Mashrou Boys School, Beit Lahiya
Affidavits taken by:	DCI-Palestine from the children's aunts: Sahar Al-Ashkar (on 24 February 2009) and Azhar Al-Banna (on 15 March 2009)



Mohammed. Source: DCI - PS.



Bilal. Source: DCI - PS.

"His face was white and his hair stood on end. He did not breathe. He did not move."

On 8 January 2009, the Al-Ashkar family from Beit Lahiya, took refuge in the Mashrou Beit Lahiya school for boys.

Sahar Al-Ashkar and her three children Riham (15), Yasin (18) and Shihda (19), along with her sister-in-law Njoud Al-Ashkar and her four children Sabri (2), Mohammed (3), Bilal (5) and Madeleine (8) headed to the school. There, they found other relatives sheltering among a group of 50 people in a classroom and joined them. On 8 January, Azhar Al-Banna (Njoud's sister-in-law) and her children Mohammed (11), Fatima (8), Mahmoud (8), Ahmed (2), and Abed Al-Rahman (2 months) joined them as well.

"We had no adequate blankets or food. [...] We had no electricity or water. Shelling and bombardment continued, and we all - women, children, and men - were terrified; especially when F16s targeted the nearby Mashrou Beit Lahiya market and destroyed shops and stores. Children were terrified. They kept screaming and crying at night. A large number of them wet themselves. (Sahar) I decided to flee because I was afraid that a missile might hit the school [but] a UN employee told us we were safe inside the school and that they had coordinated matters with the Red Cross. We spent the night in the school in fear and terror." (Azhar)

At about 3:00am on 17 January, the Israeli military fired white phosphorous shells above the school. Sahar recalls: *"We all woke up to the loud sound of illuminating bombs, scattering in the sky like fireworks, and falling west behind the school, only 50 metres away. [...] The smell of the white smoke released from such bombs was so foul that I breathed with extreme difficulty. It reminded me of the smell of tear gas. Fear and horror filled my heart. Children in the school kept crying and screaming. We could not close the windows because we were afraid that the glass might shatter ... We did not know where to go at such an early hour. Njoud's children were crying and screaming from fear and horror. Her daughter Madeleine wet herself. My daughter Riham and I went out of the classroom and sat on a desk in the corridor, while Njoud changed Madeleine's clothes. Azhar's son Mahmoud also wet himself."*

Njoud and Azhar then took the wet mattresses out of the classroom to dry them. Njoud kept telling her children to stay away from the windows. Sahar was in the corridor with her daughter Riham. Njoud handed her son Sabri to Riham and entered the classroom again, followed by her children Mohammed, Bilal, and Madeleine. It was around 6:00am. Then, Sahar reports: *"A huge explosion took place. I saw concrete blocks falling inside the classroom. I went under the desk and placed my head between my*

legs. I did not know what was going on. In the meantime, the classroom filled with thick white smoke. I stood by the door. I could not breathe because of the dust and smoke. I could not see either. I looked to the school yard and saw flames falling from the sky. The yard was filled with thick white smoke. I started to scream. I was confused and scared. The Israeli army was bombing the school. [...]"

Azhar report: "I saw Njoud's sons on the floor near the handrail and in front of the classroom. Mohammed's head was bleeding. He had been thrown onto the floor and did not move. Next to him was his brother Bilal who was injured in the abdomen. [...]Then, I saw Njoud lying on the floor at the door of the classroom. [...] Her right hand was cut off and her head was bleeding. Her son Sabri was under her. He lay there motionless. I thought he was dead as well. I dragged him and looked at him. His face was white and his hair stood on end. He did not breathe. He did not move. [...] I cleaned the dust off his face and pressed on his chest in hope he would breathe. Once I pressed on his chest, he screamed and began breathing."

Azhar then entered the classroom to look for her children, while shells kept falling: "I went down on my knees and crawled onto the floor trying to reach out with my hands to find them. I was scared that I would step over one of them because I could no longer see. [...] I grabbed a head, hands, and feet. I assumed he was my son Abed Al-Rahman. [...] Suddenly, my son Ahmed grabbed me while he was crying. I was so pleased when I heard him calling 'Mother! Mother!' I took my two sons Abed Al-Rahman and Ahmed and tried to get them out of the room when I saw Njoud's husband shouting. He is dumb and deaf. He was shouting because his two sons had been killed and his wife critically injured."

Meanwhile, Sahar was trying to escape with her children Yasin and Riham, who had been injured in her thigh by shrapnel. She saw Mohammed carrying his wife Njoud. "She was injured all over her body. Her clothes were covered in blood. She was staring at me as if she could not believe what had happened," said Sahar. Njoud was taken to Kamal Odwan Hospital and her daughter Madeleine remained with Sahar. A man living next to the school offered his hospitality to Sahar and the children, including Azhar's son Mahmoud, until an ambulance came to take them to different hospitals. Riham fainted when the ambulance arrived.

Azhar was still missing her daughter Fatima and her son Mahmoud when she heard her son Mohammed shouting "My sister Fatima has been killed when a missile hit her in the head and abdomen". As loudspeakers were calling on everyone to evacuate the school, Azhar took the three children she had, along with Njoud's son Sabri, to Jabalia school for girls, run by UNRWA. She left the children with a relative and headed to Kamal Odwan Hospital, still in her nightclothes. There, she met Sahar who had been released from Al-Awda Hospital and was coming to check on Riham and Njoud.

Njoud was in critical condition; four fingers of her right hand had been amputated; she still did not know that Mohammed and Bilal had been killed. Azhar's daughter Fatima (8) had sustained severe white phosphorous burns to her face. "The hospital administration asked us to leave the hospital because it was crowded with people who had been killed and injured in the attack. I did not know where to go this time. There was no safe place," remarked Sahar. "I do not know where I can find a safe place to go to when such wars erupt."

Njoud was taken to Egypt for treatment. Sahar spent 33 days with her in Al-Ma'dai military hospital in Cairo. She was told about the deaths of her children a month after the attack.

The Board of Inquiry report found that artillery fired by the Israeli army was the undisputed cause of death for these two children and also the cause of the injuries sustained by thirteen others.¹⁶⁸ The white phosphorous wedges released dangerous fumes and set a classroom on fire, and many children were injured through contact with burning shells or the inhalation of white phosphorous fumes. Azhar's daughter Fatima (8) sustained severe burns to her face. [see update on Fatima B]



Palestinian boys remove rubble from a classroom in a Gaza City school that was hit by an Israeli air strike. Photo credit: Wissam Nassar/ Ma'an Images.

In consequence, the Board of Inquiry qualified the attack as *"highly negligent"* and amounting to *"a reckless disregard for the lives and safety of those sheltering in the school"*.¹⁶⁹ It found that the Israeli army did not take sufficient or adequate precautions to fulfil its duty to protect civilians and UN property, especially when using such dangerous weapons.¹⁷⁰ The Board concluded that *"the Government of Israel is therefore responsible for the deaths and injuries caused to members of families sheltering in the school and for damage to UNRWA premises and property"*.¹⁷¹

The Israeli military's sustained use of white phosphorous ground and air bursts in or above densely-populated residential areas, knowing that civilians would be severely injured or possibly killed, constitutes use of an indiscriminate weapon and also violates the principle of distinction enshrined in customary international law.¹⁷²

5.5 Psychological impact

According to a Ministry of Education assessment, at least 922 registered schoolchildren were injured; approximately 732 of them sustained some form of long-term disability as a consequence of the offensive.¹⁷³ Many children lost classmates, friends, and/or siblings, and remain psychologically scarred. The scale of Operation Cast Lead exposed children to unprecedented levels of stress; they witnessed horrific scenes of violence and were deprived of their own protective environments such as their homes and schools.¹⁷⁴ An estimated 14,000 to 28,000 children need psychological support as a result of the offensive.¹⁷⁵

Some behavioural problems caused by the trauma include increased levels of violence, depression, sleeping disorders, falling mute, fear and anxiety, changes in attachment to family and community, inability to concentrate, learning difficulties and loss of recently acquired skills.¹⁷⁶ In response, UNRWA has doubled the number of counsellors working in Gaza schools.¹⁷⁷ However, attendance and performance have declined significantly since Operation Cast Lead. This is not only due to destroyed infrastructure and overcrowding, but also to children's physical injuries, their altered psychological disposition to learn, and their absence of hope in the future, as illustrated in the following updates collected by DCI-Palestine.

¹⁶⁸ See supra footnote 154 paragraph 62 and paragraph 63.

¹⁶⁹ Ibid. paragraph 57.

¹⁷⁰ Ibid. paragraph 66 and paragraph 67.

¹⁷¹ Ibid. paragraph 65.

¹⁷² See Section 3.4.7.

¹⁷³ Data collected by DCI-Palestine from the Deputy Minister of the MoEHE on 2 March 2009.

¹⁷⁴ See Médecins sans Frontières, *Physical and psychological scars in Gaza*, available at www.msf.org.au/from-the-field/field-news/field-news/article/physical-and-psychological-scars-in-gaza.html (accessed 7 Sept. 2009).

¹⁷⁵ UNICEF, *Factsheet on the Gaza Crisis* (23 Feb. 2009): [www.unicef.org/oPt/Gaza_emergency_fact_sheet\(1\).pdf](http://www.unicef.org/oPt/Gaza_emergency_fact_sheet(1).pdf) (accessed 7 Sept. 2009).

¹⁷⁶ Union of Health Work Committees - Gaza, Dr. Yousef Mousa, *Report on the Psychological effects of War on Gaza's children* (15 Feb. 2009): <http://www.labournet.net/world/0902/uhwc1.html> (accessed 15 Sept. 2009).

¹⁷⁷ UNRWA, *Refugee stories: Face your fears to conquer them*: www.un.org/unrwa/refugees/stories/2009/face_your_fears_june09.html (accessed 6 Jul. 2009).

UPDATE: Omar Obaid (14) (CASE 26), 6 July 2009

"I sat for the final exams in May 2009. I was not prepared at all. As a result, I failed in three subjects though I used to pass every subject each year. My psychological state, and the fact that I lost my friends, children from the neighbourhood and my brother Bilal, made me hate school. I don't want to study. I have become very nervous. Inside I feel that I am making a mistake with my brothers and even my mother and father, but I think they understand my bad temper because of what I had been through and after losing my brother Bilal and my friends."



Omar. Source: DCI - PS.

UPDATE: Hasan Hawila (12) (CASE 27), 4 July 2009

Hasan still requires crutches in order to walk because he has an external fixation device or frame on his leg to help keep his bones in place. Hasan's life has been confined to inside his home or a few metres outside the house.

"I sit in front of the door and watch the children from the neighbourhood playing around. I look a lot at the place where I was sitting when the incident took place. I now see the summer camp children playing inside Al-Fakhoura school. I cannot play with them or run like them. This makes me cry a lot to the extent that the people in my house are afraid of my bad temper after the injury."

As for school, I have not attended any classes since my injury; though I love school very much. I went to school and sat for exams about a month ago but I did not prepare well for them because I received physiotherapy or went to the doctor every day. Besides, I could not go to school on my own. My cousin, Mohammed Ali Hawila (16), used to take me to school to do the exams. I did not do very well in any subject. I failed in two subjects and passed the rest; but I was an A student before my injury."



Hasan six months after the incident. Photo credit: DCI-PS.

UPDATE: Fatima B (CASE 28), 6 July 2006

"My daughter Fatima is in a very bad psychological state. Every night she dreams of Israeli aircraft attacking her; one night they kill her, another night they injure her. She wakes up in the middle of the night screaming and sweating. Fatima needs her nerves to be examined because of her head injury that led to a mild tremor in her limbs. This tremor has affected her study. She had beautiful handwriting before the incident. The incident resulted in her shaking and her handwriting is no longer clear and understandable. She refuses to go to school. I advised her to go to school and sit for the final exams in May. She passed all the subjects but her average marks dropped."

Fatima B after the incident.
Source: DCI-PS.

Fatima forces me to put a scarf over her head whenever she goes to school because of the big bald patches in her hair after she underwent surgery. Most of her hair was shaved to prepare her for the surgery and there are now bald patches on her head. She refuses to leave the

house in the evening because she is afraid of darkness. These days whenever she hears Israeli aircraft, she becomes scared and rushes back to the house and then to her room. In the daylight, her face injuries are very apparent. She has marks on her face; dark brown spots. Whenever she walks under the sun, the brown marks turn black. I do not know how to treat her and get her back the way she was before the incident."

Azhar Al-Banna

UPDATE: Madeleine Al-Ashkar, (CASE 28), 6 July 2009

"Now that I have lost both my children Mohammed and Bilal, only Sabri and Madeleine are left to me. Madeleine is in a very bad psychological state that led to a marked deterioration in her studies. She is forgetful, she constantly misses her brothers Bilal and Mohammed and cries over them. She always asks me about her brothers because she wants to play with them. She suffers from nightmares."

Njoud Al-Ashkar

Other children have not resumed their studies because their families are still displaced and living in temporary shelters, or because they have had to find work to support their families impoverished as a result of the offensive and ongoing blockade of the Gaza Strip.¹⁷⁸

5.6 Effects on education and blockade

Following Operation Cast Lead, and because of Israel's ongoing blockade of the Strip, Gaza suffers from a shortage of school facilities and educational supplies which are essential in helping children recover from the assault.¹⁷⁹ Due to the damage and widespread destruction, some schools were operating in tents for the rest of the school year,¹⁸⁰ while others were working in double or even triple shifts in order to accommodate over 5,200 students whose schools were completely destroyed.

Facts and figures

- At least 260 schools were damaged and 18 destroyed in Israel's offensive;¹⁸¹
- The Gaza Strip education system serves over 440,000 children through 640 schools - some operated on double shifts;
- 36 out of 124 UNRWA school buildings sustained physical damage; five of these schools were operating as temporary emergency shelters;
- At least 26 children were killed in Israeli attacks either while they were in school, near a school or on their way to or from school;
- 105 new schools must be built to cater for the increase in the population of Gaza schoolchildren.¹⁸²



Rebuild Schools in Gaza campaign.
Photo credit: Save the Children Alliance.

¹⁷⁸ See UNICEF, "Growing poverty in Gaza pushing children to work" (24 Jun. 2009): www.unicef.org/oPt/media_5759.html (accessed 6 Sept. 2009).

¹⁷⁹ OCHA, *The Humanitarian Monitor May 2009*: www.ochaopt.org/documents/ocha_opt_humanitarian_monitor_2009_05_15.pdf (accessed 6 Sept. 2009).

¹⁸⁰ UNICEF, *Back to school in Gaza, children welcome chance to resume normal lives*: www.unicef.org/emerg/oPt_47592.html (accessed 6 Sept. 2009).

¹⁸¹ Ibid.

¹⁸² Ibid.

According to UNRWA, in February 2009 over 200 schools had only 40 percent of their books because paper and glue was not allowed into Gaza.¹⁸³ To justify the restrictions, Israel argues that steel pipes and cement can be used to build rocket launching pads, while stationery and textbooks fall into the category of “non-essential” or “luxury” items.¹⁸⁴ It is essential that destroyed infrastructure such as homes and schools are quickly rebuilt so the children of Gaza can recover.



Palestinian children attend their first day of class in over a month inside a tent erected beside the ruins of their destroyed school in the southern Gaza Strip town of Rafah. Photo credit: Wissam Nassar / Ma'an Images.

“The impact on schools in Gaza of the recent fighting is incalculable and will have a devastating effect on the next generation. How does one measure the impact of the fighting on young minds? How can one calculate what in mental terms has been destroyed and what needs to be healed? And as for the physical damage, the schools damaged or destroyed are likely to remain in a state of disrepair while building materials are banned from Gaza. Unless the blockade is lifted soon, children will come back for the start of the school year in shattered and partially destroyed classrooms.”

Christopher Gunness, Spokesperson for UNRWA, 16 July 2009¹⁸⁵

5.7 Conclusion

The Israeli military’s extensive and wanton destruction of schools, including UN schools used as civilian shelters, and the killing of at least 26 children in these attacks, constitute grave breaches of the *Fourth Geneva Convention*.¹⁸⁶ These schools were assumed to be safe by children, parents, teachers, and UN staff. Children who survived these attacks will suffer extensive physical and psychological afflictions, expected to affect their ability and desire to learn in the immediate and long-term future; this will affect their healthy development into adulthood and reduce their life opportunities. To this day, the ongoing Israeli blockade of the Gaza Strip is compounding the devastation created by the three-week Israeli offensive by preventing reconstruction and imports of basic education material.

¹⁸³ IRIN Middle East, *Challenges of getting aid to Gazans*: www.irinnews.org/Report.aspx?ReportId=82813, (accessed 6 Jul. 2009).

¹⁸⁴ Heather Sharp, *Scant movement on Gaza blockade* (6 Jun. 2009): http://news.bbc.co.uk/2/hi/middle_east/8101002.stm (accessed 7 Sept. 2009).

¹⁸⁵ In a direct statement to DCI-Palestine.

¹⁸⁶ Article 147 states: “Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention:..extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.” *Fourth Geneva Convention* (12 Aug. 1949).



Child climbing the stairs of her destroyed home. Photo credit: Maja Hitić.

6. Destruction of civilian homes

6. Destruction of Civilian Homes

"I don't want to live here anymore. It's too dangerous. I don't feel safe anywhere. Even my school was attacked. No-where is safe anymore. A week ago, I saw tanks from the window near the border. I was so scared. They could be here in five minutes. So I packed all my new clothes and my new toys and my photos and got everything ready to leave. I told my dad I wanted to leave."

Lamis A (12), from Ezbet Abed-Rabbo neighbourhood

6.1 Summary

During Operation Cast Lead at least 3,600 shelters were completely destroyed, displacing around 21,000 people including an estimated 10,500 children. A further 2,700 shelters sustained major damages and many of the residents of these homes may also have been displaced. Around 52,000 shelters sustained minor damages. Further, of the 5,670 shelters destroyed by Israeli forces between the start of the Second Intifada and Operation Cast Lead, only 1,029 were rebuilt before Israel's siege made reconstruction impossible. Therefore, as a result of Israeli military actions over the last nine years, approximately 25,000 children remain displaced today.¹⁸⁷

As illustrated below, during Operation Cast Lead, many if not most of the houses demolished were destroyed in military attacks which violated the principles of distinction and proportionality and may amount to grave breaches of the *Fourth Geneva Convention*.

The impact of home demolitions on children will be felt for years to come. A recent Save the Children study found that children who had their home demolished fare significantly worse on a range of mental health indicators, including: withdrawal, somatic complaints, depression and anxiety, social difficulties, higher rates of delusional, obsessive and compulsive thoughts, delinquency and violent behaviour.¹⁸⁸

6.2 Definitions

Shelter:	Individual housing unit such as a house, apartment, cottage, etc.
Total destruction:	Destruction beyond repair. ¹⁸⁹
Partial destruction:	Repairable damage.

"But then we were told that there are houses to be demolished for the sake of "the day after". ...the rationale was that we want to come out with the area remaining sterile as far as we're concerned."

Testimony of Israeli Soldier, Breaking the Silence¹⁹⁰

6.3 International law

The *"extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly"* is a grave breach of the *Fourth Geneva Convention* (Article 147) and hence a war crime. Direct attacks on civilian objects are war crimes.¹⁹¹

¹⁸⁷ Figures on destruction of shelters available from UNRWA-hosted UN Shelter Cluster (unpublished). Al Mezan estimated the numbers of children displaced based on an average of three children living in each shelter in the Gaza Strip.

¹⁸⁸ Save the Children, *Broken Homes: Assessing the Impact of House Demolitions on Palestinian Children and Families* (Apr. 2009): www.savethechildren.org.uk/en/docs/Broken_Homes_English_low_res.pdf (accessed 7 Sept. 2009).

¹⁸⁹ As assessed by Al Mezan's field work team.

¹⁹⁰ See supra footnote 124.

¹⁹¹ Article 8(2)(b)(ii) of the *Rome Statute* of the International Criminal Court.

Customary international humanitarian law requires that, to be legitimate, the destruction of a civilian object must offer a definite military advantage.¹⁹² It is not permissible to launch an attack which offers only potential or indeterminate advantages: civilian objects may not be destroyed on the suspicion that they may be used for future military operations. The destruction of at least 1,723 shelters,¹⁹³ after the end of hostilities when they had come under Israel's effective control, indicates that they could no longer be military objectives or near any other legitimate military targets, and should therefore have been respected as civilian objects. At best, their destruction could only offer a potential, or future, military advantage. Their destruction was therefore illegal, violating fundamental international humanitarian law principles, and amounting to war crimes.

Additionally, Israeli home demolitions contravene several human rights treaties to which Israel is party including the International Covenant on Economic Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child, both of which accord the right to 'adequate housing'. In addition, the UN Committee Against Torture, reporting on Israel's compliance with the Convention Against Torture, has, since 2001, stated that home demolitions for administrative and punitive reasons constitute cruel, inhuman or degrading treatment.¹⁹⁴

6.4 Key figures

During Operation Cast Lead, Israeli troops destroyed thousands of shelters. The latest UN figures based on a large scale house-to-house survey reveal that 3,600 shelters were demolished beyond repair, 2,700 shelters sustained major damages and 52,000 shelters sustained minor damages.¹⁹⁵ Through a Gaza Strip-wide survey, Al Mezan was able to verify the total destruction of 2,631 shelters and the partial destruction of 8,523 shelters.

Level of Damage	Governorate					Total
	North Gaza	Gaza	Middle	Khan Younis	Rafah	
Total Destruction	890	903	174	246	418	2,631
Partial Destruction	2,427	4,993	294	243	566	8,523
Total	3317	5896	468	489	984	11,154

Table 1: Destruction of civilian homes according to extent of damage and governorate. Source: Al Mezan

Al Mezan's documentation of the manner and circumstances of the destruction of thousands of shelters during Operation Cast Lead strongly indicates that much of this destruction was carried out in the absence of military necessity since; in many cases, shelters were destroyed after they came under the effective control of Israeli forces.

"[The Israeli military has] frequently destroyed houses roads and agricultural land in order to expand the buffer zone at the Rafah border zone or to inflict damage for punitive reasons unconnected with military combat."

Special Rapporteur on the situation of human rights in the Palestinian territories, 2005¹⁹⁶

¹⁹² Article 52, Additional Protocol I, and Rule 8, International Committee of the Red Cross, *Customary International Humanitarian Law, Volume 1: Rules*, 2005.

¹⁹³ According to Al Mezan documentation 1,307 shelters were destroyed by army bulldozers, 290 shelters were demolished after they had been temporarily occupied by Israeli troops and used as military bases, and 126 shelters were demolished by explosive devices planted in the shelter. The nature of these methods of destruction indicate strongly that Israeli forces were in effective control of the area at the time of demolition. Please see section 6.5 for further information.

¹⁹⁴ UN Committee Against Torture (CAT), *Concluding observations of the Committee against Torture : Israel*, 23 June 2009, CAT/C/ISR/CO/4 (\$33) <http://www.unhcr.org/refworld/publisher/CAT/4a85632b/0.html> (accessed 7 Sept. 2009) and UN Committee Against Torture (CAT), *Concluding observations of the Committee against Torture: Israel*, 23 November 2001. CAT/C/XXVII/Concl.5 (§ 6J). <http://www.unhcr.ch/tbs/doc.nsf/0/60df85db0169438ac1256b110052aac5> (accessed 7 Sept. 2009).

¹⁹⁵ Figures on destruction of shelters available from UNRWA-hosted UN Shelter Cluster (unpublished).

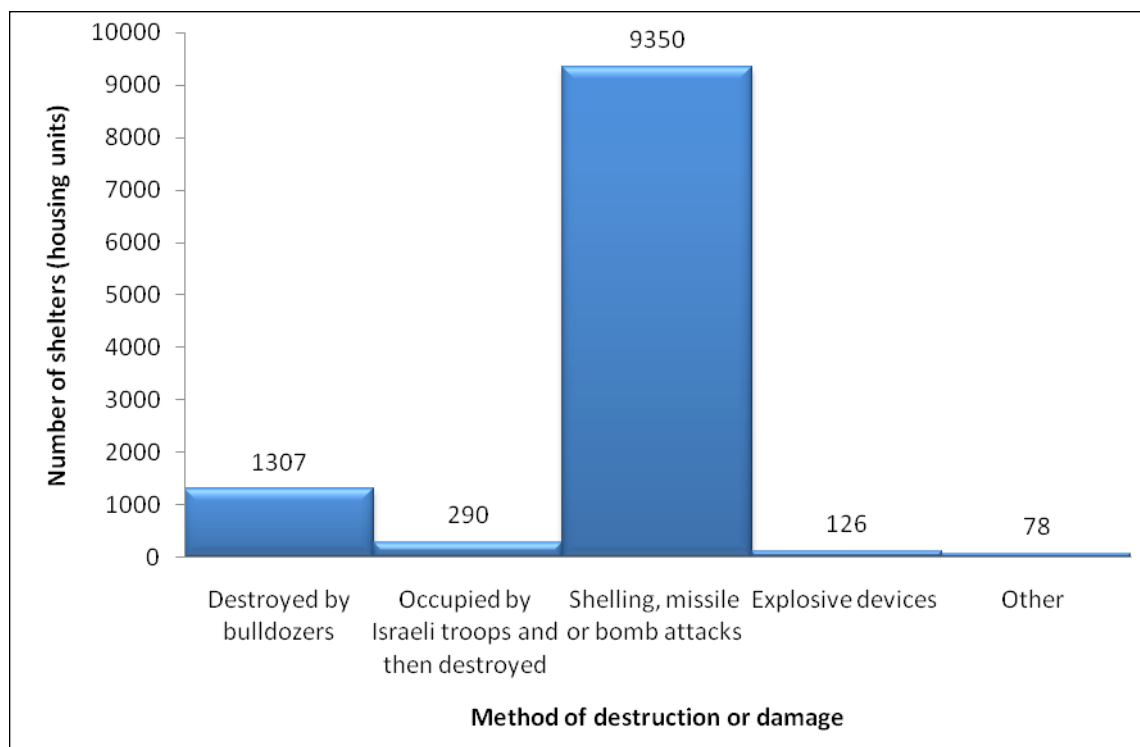
¹⁹⁶ *Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967*, Professor John Dugard (Mar. 2005): <http://unispal.un.org/UNISPAL.nsf/5ba47a5c6cef541b802563e000493b8c/95c495910a99ad3885256fc100678809?OpenDocument> (accessed 6 Sept. 2009).

6.5 Methods of shelter destruction employed by Israeli troops during Operation Cast Lead

Bulldozers and anti-tank mines: Al Mezan data indicate that at least 1,307 shelters were bulldozed and at least 126 shelters were destroyed with anti-tank mines or other explosive devices.¹⁹⁷ These methods require soldiers, likely to be from engineering units, to leave their tanks and walk around in the open indicating that the troops were in control of the area. This implies that the shelters were not being used by resistance fighters at the time they were destroyed; and so could not be considered military objectives.

Missiles, shells and bombs: Al Mezan data indicate that at least 9,350 shelters were destroyed or damaged by missiles, shells, mortars and bombs fired by aircraft, tanks, warships or ground troops. The pattern of destruction caused by these methods - where entire neighbourhoods were flattened (often after the Israeli troops had secured control over the area)¹⁹⁸ - as well as the fact that Israeli aircraft and tanks fire precision munitions, indicates that the destruction was indiscriminate, disproportionate, and, in many instances, not justified by military necessity.

Occupation of homes: In addition, at least 290 shelters were damaged or destroyed after Israeli troops occupied them for use as military bases. The fact that Israeli troops were fully in control of those shelters at the time, again provides a strong indication that their destruction was not necessary.



Graph 2: Number of shelters damaged or destroyed according to the method of destruction. Source: Al Mezan documentation

¹⁹⁷ During the documentation process, Al Mezan observed that homes that were higher than two floors were usually exploded and destroyed after Israeli military had taken over and secured effective control over the neighbourhoods; houses that were two storeys or lower were demolished by armoured bulldozers.

¹⁹⁸ Al Mezan documentation.

6.6 Incidents

“If the deputy battalion commander thought a house looked suspect, we’d blow it away. If the infantrymen didn’t like the looks of that house - we’d shoot.”

Testimony of Israeli Soldier, Breaking the Silence¹⁹⁹

“Houses were demolished everywhere.”

Testimony of Israeli Soldier, Breaking the Silence²⁰⁰

6.6.1 Al Qarara town, east of Khan Younis

As-Smiri neighbourhood of Al Qarara town:

- Shelters totally destroyed: 78
- Shelters partially destroyed: 2
- Residents of these shelters: 515 including 265 children

On the morning of 8 January, Israeli bulldozers started to tear down homes in the As-Smiri neighbourhood of Al Qarara town which lies less than one kilometre from Gaza’s border with Israel. Local resident Abdel Al-Ra’ouf Ash-Sheikh Ahmed, a 55-year-old teacher, was at home with his wife when Israeli troops started to demolish their house. When Israeli troops discovered the couple was at home, they stopped destroying the house and left it largely intact. This raises serious doubts as to the military necessity of destroying their house, or the 80 shelters in the area.

CASE 29

Affidavit taken by: Al Mezan from Abdel Al-Ra’ouf Ash-Sheikh Ahmed on 23 February 2009

“At approximately 8:00am on Thursday 8 January 2009, I was with my wife in our house in the As-Smiri neighbourhood. I heard the sound of heavy Israeli armoured vehicles moving. From our experience with frequent Israeli ground incursions during the past eight years I knew that the sound usually comes when heavy tanks and armoured bulldozers approach the town from the border. I looked through a hole in one of the windows of my house on the ground floor, which opens toward the east, and saw a number of tanks and huge army bulldozers destroying houses that belong to the Abu Sabet family and the Abu Dhahir family. The bulldozers were approaching my house quickly. I saw them as they started to destroy the house next door and my old house, which is a small house roofed with asbestos. I went downstairs with my wife and we took shelter in one of the rooms. Then I felt the walls of the house shake and I heard a sound like something big had hit the house’s western wall. I hurried outside with my wife at once fearing that they would tear the house apart over our heads. When we were outside, I saw a large bulldozer and saw a soldier inside it. I felt like the soldier was surprised to see me and my wife getting out of the house. I saw him speaking over the radio. He then ordered us to return to the house, and we did so. I went to the western room that had been hit by the bulldozer and saw a wide hole in the wall. I moved with my wife to shelter in another room.”

“Then I felt the walls of the house shake... I hurried outside with my wife at once fearing that they would tear the house apart over our heads.”

¹⁹⁹ See supra footnote 124.

²⁰⁰ Ibid.

At around 1:30 pm, the couple heard a bulldozer return and hit the same spot in the house. They ran outside immediately and stood near the house. Israeli troops ordered the couple to walk north towards their old house and then ordered Abdel Ra'ouf's wife to return home. Abdel Ra'ouf was detained in a tank for several hours, released and ordered to return home.

"The soldiers let me out of the tank, untied me and removed the blindfold. I found myself near my house and ran into it. I checked the time and noticed it was nearing 10:00pm. My wife was inside the house. She was afraid and told me that she made many telephone calls to the emergency services and the ICRC."

The home of the Abu Dhahir family, along with the homes of around one hundred of their relatives located in the Abu Dhahir neighbourhood of Al Qarara town, was flattened after local residents had fled the area. Unable to rent a new home in their old neighbourhood, the family has had to move away from family and friends and the children have had to move schools. Ghazi Mohammed Hammad Abu Dhahir, (50), spoke to Al Mezan about his experience:

CASE 30

Affidavit taken by: Al Mezan from Ghazi Abu Dhahir (50) on 2 July 2009

"My house was located in Abu Dhahir neighbourhood in Al Qarara town. Since the Israeli forces declared war on the Gaza Strip on 27 December 2008, Israeli tanks started to fire shells and shoot with machineguns arbitrarily toward our neighbourhood. One day a shell hit a house that belongs to the Abu Sha'ar family and killed a number of them. We spent nine days under these conditions of fear. The shelling was intense and it seemed there was no safe place to go. In the morning of 5 January 2009, I saw many Israeli tanks and armoured bulldozers gathering near Kissufim crossing point which is only 500 metres from our house. I also saw a number of our neighbours preparing themselves to leave the neighbourhood and head to the city centre. My family and I decided to leave with the neighbours."

The Abu Dhahir family stayed with relatives for a few days until they felt that the area was no longer safe and then moved to a UN shelter, *"We stayed in the shelter for 22 days. I stayed in a classroom with some 30 people. It was very bad there as the electricity was cut off most of the time. The toilets were not enough and there were no bathrooms for us to shower,"* When Ghazi heard about the Israeli declared ceasefire, he and some of his neighbours went back to their neighbourhood.

"When we arrived there we were utterly shocked. My house and about a hundred houses that belong to my relatives were completely destroyed. Nothing was left but the rubble. At UNRWA's request we had to leave the school and rent an apartment in another area. I therefore had to move my children from their old school, which was just near our house, to a new school. Until this day, we do not feel comfortable living in a new area far away from my [extended] family and relatives. Our new place still needs furniture and household equipment as everything in our house was destroyed under it."

6.6.2 Al Fukhari village, east of Khan Younis

- Shelters totally destroyed: 31
- Shelters partially destroyed: 46
- Residents of these shelters: 551 including 271 children

Fatma Al-Amour, her husband and her two children were forced to leave their home after it was shelled and shot up with machinegun fire. Now the family is living in caravans as they cannot afford to rent a new house.

CASE 31

Affidavit taken by: Al Mezan from Fatma Al-Amour (32) on 11 February 2009

"At around 5:00pm on Wednesday 15 January 2009, I heard very intensive shooting and the sound of aircrafts circling in the sky of the area while I was in the house with my husband and children. My husband, Ayman (37) decided that we would leave the house due to the intensive fire. I prepared myself and my children to leave the house. After we left the house, we could not walk more than ten metres due to the intensive shooting coming from Sofa crossing, so we returned home and used the stairwell as a place to protect ourselves in the belief that it was safer. We stayed the night in the stairwell, and I was hearing sounds of explosions and the movement of tanks and bulldozers all night in this area, which saw repeated incursions during the Intifada. At around 2:00am, a huge explosion occurred close to our house and the walls shook and the windows fell down. My children - my oldest son is 12 years old - were screaming and crying all night as they were extremely frightened.

At around 4:00am, I heard the sound of tanks coming close to our house. I went to the bathroom and went up on a water gallon [a plastic water container with the capacity of a gallon, which is commonly used in Gaza for keeping water], and looked out of the window, which looks over the southern side of the house. I saw three tanks, three jeeps and a number of bulldozers 15 metres away from our house. I went back to the staircase and stayed with my children until 6:00 am when the sound of the movement of tanks and bulldozers went down a lot, as I could only hear sounds of sporadic shooting. I went to the bathroom again and looked out of the window. I saw the tanks stationed in holes behind high piles of sand that the Israeli forces set up during the night. At around 10:00 am on Thursday, my husband decided to leave the house from fear it would be destroyed on top of us. I saw him holding a white piece of cloth he used as a white flag. He carried my little son, Nazeeh and then we left the house. We walked towards Sofa crossing, and about 200 metres from the crossing we walked towards the north, in the middle of open areas close to the borderline.

While walking, I saw some tanks and surveillance aircraft were intensively circling in the sky. I kept walking with my husband and children for about two hours until we reached Khuza'ah village. We then found a taxi which transported us to Gaza European Hospital, and then we went to Al-Farabi school in Bani Suhaila village after we had been informed by some relatives that the school was opened as a shelter for the residents of the Al-Fukhari village. We stayed at the school for five days and we used to sleep in one of classes with a number of relatives.

After that I decided to go to my house alone to see what had happened to the house after we left it. I went there, and before I entered the house, I was surprised by a tank that was stationed close to the house. Once I entered my house which had been greatly destroyed; I heard the sound of intensive shooting. I lay down and started screaming. I had no means of communication and I was completely terrified.

I crept 400 metres from the house and left the area. I went back to the school. On 18 January 2009, we left the school and went to the house of one of our friends in Khan Younis where we stayed for several days in one room. After that, we looked for an alternative as one room was not big enough for us. Because my husband was not working, we could not rent a house, so we moved to a factory owned by our relative Ayman Al-Amour. We moved into two caravans in the factory."

6.6.3 Destruction of Ezbet Abed-Rabbo neighbourhood, North Gaza



The levelling of homes in Ezbet Abed-Rabbo neighbourhood, North Gaza. Photo credit: Al Mezan

- Shelters totally destroyed: 178
- Shelters partially destroyed: 129
- Residents of these shelters: 3,280 including 1,487 children²⁰¹

Hundreds of families were forced to flee Ezbet Abed-Rabbo neighbourhood when their houses were targeted or they were ordered by Israeli forces to leave. Twelve-year-old Lamis A fled with her family after the third floor of the house she was sheltering in (owned by relatives) was shelled. Instead of providing safe passage to the fleeing civilians, Israeli troops stripped and then detained the men and boys aged 16-50. Lamis' home was occupied by Israeli soldiers after the family had fled and her toys and clothes destroyed. She spoke to Al Mezan in the presence of her mother about her experience.

CASE 32

Affidavit taken by: Al Mezan from Lamis A (12) on 15 June 2009

"When the bombing started I wasn't at school because I go to a private school and we have weekends on Fridays and Saturdays. I was at home studying in the garden outside. My brother, who is nine, and my grandfather and uncle were there. When we heard the bombing my uncle left straight away. I stayed with my grandfather. Then my father came back. There was lots of bombing. My stomach really hurt. We went down to the basement but I couldn't sleep. I was crying all night and I thought I was going to die. My brother started counting the bangs. He counted 329. We kept moving from room to room because of the bullets. They kept shooting into the rooms. We thought we were going to die. Then we went to

²⁰¹ These figures are based on an Al Mezan Gaza Strip-wide field survey in which residents of destroyed shelters completed questionnaires including queries on household numbers.

Amal's house [Lamis' cousin] nearby. I was holding a white flag. There were lots of people in it and no water. There were 30 women in one room and not enough milk or diapers for the babies. It was really difficult. We were all sleeping on the floor until they shelled the third floor of the house and there was a big fire. We could smell the smoke. We decided to leave the area and started walking down Salah Ad-Din Street.

There were loads of people. Maybe a hundred or more. Then the soldiers stopped us and took the men and made them take off their clothes. All the women were screaming and crying and I was crying because the older people were upset. I was crying and shaking and holding on to my dad's trousers. I told him that if they called him I'd go instead. Dad told me it would be okay and that I had to walk in a straight line so we wouldn't get shot. I could see body parts all over the place. I thought they were puppets, or toys, or something like that. The people [dead bodies] didn't have any features but some other people we were with were recognizing them by their clothes. Someone went to try and get a body he recognised but the soldiers shot at him. Old women were screaming and I started screaming too. I could smell the bodies. There were planes in the area and lots of shelling. We made it to Rimal [neighbourhood] and stayed with relatives there. Then we went to Jabalia and stayed with relatives there. When we heard the Israelis had withdrawn we went back to our house. When mum saw it she collapsed. We heard that some of our relatives had been killed. There were holes in the wall even in my bedroom. My Barbie and Fula [a type of Barbie doll popular with children in Arab countries] dolls were all broken; and all my pictures and my embroidery. The soldiers had put out cigarettes on my clothes. But I was just relieved that our house was still there.

I don't want to live here anymore. It's too dangerous. I don't feel safe anywhere. Even my school was attacked. No-where is safe anymore. A week ago, I saw tanks from the window near the border. I was so scared. They could be here in five minutes. So I packed all my new clothes and my new toys and my photos and got everything ready to leave. I told my dad I wanted to leave.

[After Cast Lead] I saw a psychologist. She told me I need to try to close my eyes and stretch out in a dark room; even if just for a minute. [Lamis is now unable to sleep unless curled into a ball in a room with a light on]. At night I can't sleep. I just start crying I keep having terrifying dreams. I see the dead bodies and the blood. I dream that Ezbet Abed-Rabbo is a closed area and that you need to get permission from the soldiers to get out."



Lamis A, (left) sitting with her cousin. Photo credit: Al Mezan.

The home of Sameeh Ash-Sheikh, the 50-year-old ambulance driver who tried to rescue the Abed-Rabbo family on 7 January after four of them, including three children, were shot by Israeli troops (see Case 4) was totally destroyed, along with his ambulance, after he had been ordered by Israeli troops to leave the area.



Ambulance of Sameeh Abdel Ash-Sheikh crushed in the rubble of his home. Photo credit: Al Mezan

CASE 33

Affidavit taken by: Al Mezan from Sameeh Ash-Sheikh on 7 February 2009

"I work as an ambulance driver at Kamal Odwan Hospital in Jabalia town. I live with my family which is made up of 17 people. My house is in Ezbet Abed-Rabbo. On the evening of 3 January 2009, I heard gunfire and consecutive shelling. I felt afraid for my family so we decided to go down and shelter on the ground floor. My family and I remained in this situation for three days without water or electricity."

On Wednesday 7 January 2009, Sameeh heard gunfire and then screaming coming from the house of his neighbours. *"It was very close to my house. Then I heard the screams of several people coming from the direction of my neighbour Mohammed Muneeb Abed-Rabbo's house. They were the voices of a man and several women saying, 'Ambulance! Ambulance! They have shot us!' I was able to distinguish the voice of my neighbour Khaled Abed Rabbo [Mohammed Muneeb Abed-Rabbo's son] because I often sat with him and exchanged visits."*

Sameeh and his son, Saeb, decided to take his ambulance and try to reach the Abed-Rabbo family home but were obstructed by Israeli soldiers:

"We drove the car a little towards the north. I saw an Israeli tank parked on Mohammed Muneeb Abed-Rabbo's land. On top of the tank there were two soldiers. One of them signalled to me; ordering me to stop. Then I heard the voice of one of the soldiers on top of the tank through a loudspeaker saying to me: 'Get out of the car and walk forward.' My son, Saeb and I got out. He ordered me to show my abdomen and ordered me to go toward the tank. I walked eastwards towards the tank, holding my arms up high. I saw a second Israeli tank around ten metres to the west of Mohammed Muneeb's house, with two soldiers on top of it. I reached the soldier on the first tank, who ordered me to walk towards him. He said to me: 'Where are you going?' I replied: 'I am an ambulance driver and I heard the sound of screams coming from inside my neighbour's house.' I pointed with my hand towards Mohammed Muneeb Abed-Rabbo's house and said to him: 'I am going to transport the wounded.' He refused and ordered my son Saeb and I to walk westwards on Ezbet's main street, Al-Quds street, and leave the ambulance where it was."

Sameeh and Saeb started walking west and saw relatives and neighbours heading in the same direction holding white flags. They were detained by Israeli troops stationed by Saladin Mosque for around an hour and then ordered to head west:

"We walked westwards on Ezbet street. On the way, I saw several corpses of young men lying on both sides of the street. My sons and I reached Jabalia town and I met my family at my sister's house. We headed for a school which belonged to UNRWA in Jabalia camp. On the same day, I heard the news that two of Khaled Abed-Rabbo's daughters (see Case 4) had been killed and that his third daughter had been severely wounded."

On Sunday 18 January, Sameeh heard that Israeli troops had withdrawn from Ezbet Abed-Rabbo neighbourhood and decided to return home.

"I saw our house was totally destroyed and levelled to the ground. The same applied to a large number of our neighbours' houses and other people who lived in Ezbet. I saw the ambulance I used to work on destroyed under the ruins of my house. My family and I returned to the school and stayed there for another week. Then I was able to rent a flat in Jabalia camp, where my family and I are still living."

6.6.4 Attacks in Yebna Neighbourhood of Rafah, south Gaza

- Shelters totally destroyed: 13
- Shelters partially destroyed: 30
- Residents of these shelters: 271 including 114 children

Sa'ad El-Farra (39), from Yebna Block in Rafah refugee camp, lived in his house with his wife and six children. He was at home on the afternoon of Wednesday 31 December 2008. There were no hostilities, and he went to visit his brother who lived nearby. While on route, Israeli forces targeted his house with a shell, destroying it. As Sa'ad El-Farra had no connection to any armed group, this strike appears to constitute a deliberate attack on a civilian object.

CASE 34

Affidavit taken by: Al Mezan from Sa'ad El-Farra, (39), on 11 February 2009:
Teacher; lives with his wife and six children

"At around 2:05pm on Wednesday 31 December 2008, I was in the kitchen with my nephew Bahaa Mohammed Awadallah after having lunch in my second-floor flat where I live with my family who had left the house. I heard an explosion which brought the house's windows down. I heard the windows crashing, so I went to the eastern balcony of the house to figure out what had happened. I assumed that the explosion had targeted a nearby house. I saw my neighbours gathering and then they started yelling at me to leave the house. I refused to leave, but the neighbours asked me to leave the house as they thought that the next door house, which is owned by the family of my uncle Abed Al Hamid, was a target."

"At around 2:20pm on the same day, I left the house carrying my lunch. As I went into my brother's house which is 150 metres from my house, I heard an explosion. I rushed with my brother Mohammed towards my house to find dust everywhere. After the dust vanished we were shocked to see that the shelling had targeted our house, although I have no connection to any political organisation or activity."

Sa'ad stayed at his brother's house for the remainder of the offensive. He now lives in a rented flat. *"After the war ended, it was difficult to find a house and until now I have no furniture but some mattresses and covers."*

6.6.5 The bombardment of Rafah border area, south Gaza

- Shelters totally destroyed: 164
- Shelters partially destroyed: 144
- Residents of these shelters: 2,418 including 1192 children

On 28 December 2008, the Israeli military started to bomb the Rafah border area, in the south of Gaza. Arguments made by Israel that it was exclusively targeting tunnels in Rafah do not stand up to scrutiny. At the end of Operation Cast Lead, the majority of the tunnels in the Rafah area remained in place, whereas over 300 homes in the area had been damaged or destroyed. Given the precise nature of Israeli weaponry, this vast destruction can be attributed to the failure of the Israeli army to abide by its obligation to take appropriate, effective measures to avoid the destruction of homes, or to the deliberate targeting of civilian objects by Israeli troops. The following incident is one illustration of the vast destruction wrought on civilian homes in the Rafah border area.

CASE 35

Affidavit taken by: Al Mezan from Wa'el Qishta (33) on 3 February 2009

"I live in the Salah Ad-Din Gate in the Al Brazil neighbourhood in Rafah. My house is located 120 metres from the iron wall which the Israeli army created along the border line before its withdrawal from the Gaza Strip in 2005.

On 28 December 2008, one day after the Israeli air attack on the security installations across Gaza, the Israeli military started to bombard the tunnels area along the borderline. The bombardment started to get closer to our house, which has four floors and is inhabited by four families of 20 of my extended family members. All of us left our house on that day and moved to the house of my brother, which is located in George Street also known as Airport Street in As-Salam neighbourhood. I went to check on our house every day during the humanitarian ceasefire that the Israeli army announced through the media.

At approximately 1:00 pm on Thursday 9 January 2009, I went to my house as usual and it had been turned into a heap of rubble. It was destroyed on [top of] our belongings and furniture. The nearby house, which is owned by my father's cousin Dr. Abdel Hadi Qishta, was also destroyed almost completely. We tried to remove whatever papers and official documents we could find among the rubble of my house; however, we could not find anything as the house was totally destroyed. We are now staying in the house of my brother, Aqil Abed Qishta, which is composed of a ground floor roofed with concrete built on an area of 150 square metres. The house has three rooms. My brother has a family of ten."

6.6.6 The destruction of Az-Zeitoun neighbourhood, Gaza City

- Shelters totally destroyed: 237
- Shelters partially destroyed: 986
- Residents of these shelters: 14,916 including 7,843 children

Az-Zeitoun neighbourhood is the largest neighbourhood in Gaza City. Parts of this neighbourhood were completely flattened by Israeli troops after they had secured effective control over the area and the majority of the residents had left. The following attacks illustrate the immense scale of the destruction inflicted by the Israeli army on this neighbourhood.



The destruction of apartment blocks in Az-Zeitoun neighbourhood, Gaza Governorate. Photo credit: Al Mezan

CASE 36

Affidavit taken by: Al Mezan from Jamal Malaka.

"At around 8:00pm on Saturday 3 January 2009, I was sitting in my house with my father, my wife and my son. We were talking about the war [Operation Cast Lead] launched by the Israeli forces on the Gaza Strip. We were talking about how scared we were that the Israeli forces would invade our area. Gradually, while we were talking, we began to hear the sound of shooting; it was increasing and then followed by the sound of consecutive explosions. The sound of the explosions began to get closer bit by bit to our house until we felt the sound of the impact of shrapnel and bullets on the walls of the house."

The family stayed in their home until the next morning and then decided to flee the area: *"I decided to leave the house afraid for my life and the life of my family. We all left the house. I helped my father to walk and my brother helped my mother. We walked between the farms and unpaved roads towards the north trying to get away from the area as quickly as possible. While we were walking we were really scared from the muddy, deserted roads."*

The family reached the home of Jamal's brother near Doula crossing in Az-Zeitoun neighbourhood which is around two kilometres from their house.

"We went to my brother's house - he lives and works in the [United Arab] Emirates. The key of the house was with me. I opened the door of the house and we stayed there for all the days of the war. We could hear the sound of Israeli vehicles and accompanying explosions clearly, but we were in a safer area. We didn't receive news about the neighbourhood because all of us from the area had left; and realized that when we tried to call them to check on our house. They told me that they had left the area and they didn't know what the Israeli forces were doing there. After the end of the war was declared on 19 January 2009, and after we received confirmation from some of the neighbours that the Israeli forces had completely pulled out of the area we went, at around 7:00am on the same day, to check on my house. When me and my father got there we were shocked by what we saw. The whole area had changed and there was nothing left of my house. It had been completely levelled with all its contents and when we left the house we weren't able to take anything. We left with only the clothes that we were wearing. I could not even identify exactly the borders of the house which I had tired and sweated to build over 30 years ago. At that moment, I sat on the ground and began to think about where I would live; from whom would I seek shelter. Then I went back to my brother's house near Doula building. I've been staying in it until now; I don't even visit the area because when I go I feel sick and as though I can't breathe."

6.6.7 As-Salam neighbourhood in Rafah, south Gaza

- Shelters totally destroyed: 72
- Shelters partially destroyed: 49
- Residents of these shelters: 901 including 422 children

The following testimony provides a further illustration of the direct targeting of civilian homes without military necessity.

CASE 37

Affidavit taken by: Al Mezan from Mhareb Al-Raqiba (49) on 3 February 2009

"I'm married and my family is made up of ten people including seven children. I'm unemployed. I live near Al Murabiteen Mosque in As-Salam neighbourhood in Rafah. At around 5:15pm on the evening of Saturday 10 January 2009, I went to the mosque and prayed the Maghreb [sunset] prayer accompanied by Mr. Abdullah Abu 'lyad. We were on the way back to our homes and the sky was full of planes, especially drones [unmanned aircraft]. Suddenly, I heard the sound of a light explosion and a group of neighbours who were in Abu Yasser Ar-Rameilat's apartments running out and saying 'a warning missile.' I found out that Abu Yasser's house had been targeted so I ran away along with all of those who were outside because of the Maghreb prayer and we brought our families and got around 400 metres away from the place. After around five or seven minutes I heard the sound of a really heavy explosion and we went back to Abu Yasser Ar-Rameilat's house, with the [other] prayers. When we got there I saw the house. It was a pile of rock and stone and the furniture underneath it. I confirmed that the residents escaped before the second attack that destroyed the house took place. I, and those who were with me, began to try to pick up the blankets, covers and clothes. But everything we got out was destroyed. When I got back to my home, the windows were destroyed."

6.6.8 Tal Az-Za'tar neighbourhood, Jabalia, North Gaza

- Shelters totally destroyed: 10
- Shelters partially destroyed: 79
- Residents of these shelters: 985 including 413 children

CASE 38

The home of Ahmed Mohammed Abdel-Rahman Salha was heavily damaged after the family, including five children - Wisam (12), Wisal (11), Marah (9), Nisma (5) and Noor (2) - had fled to a UN shelter. Unable to rent a new home, the family is living with Ahmed Salha's nephew, Anwar, who also has five children ranging from 2-12 years old. Ahmed's children have had to be treated for psychological problems.

Affidavit taken by: Al Mezan from Ahmed Salha (30) on 29 June 2009

"At approximately 11:30am on 27 December 2008, the Israeli forces bombarded a base of the Eazdin Al-Qassam Brigades that was located west of my house. My children were terrified. After tending to them, I collected the broken glass of my house's windows. Other explosions occurred around us; some were very close and their sounds were very loud. I lived very stressful times of fear and anticipation with my family as the bombardment continued all the time. That same day, an Israeli fighter plane dropped a bomb on a little hill planted with olive trees near my house. The house shook and the asbestos roof was largely destroyed. Pieces of asbestos fell on our heads, but fortunately none of us was harmed. My children and I were frightened. I calmed the children a little bit. But we couldn't leave the house under the continuous bombing. We decided to stay at home.

In the morning of the next day, 28 December 2008, an Israeli fighter plane fired a missile at the same hill. The explosion destroyed the rest of the asbestos roof and windows' glass in the house. We therefore decided to leave our house. My family and my brother's family, who live in the adjacent house, prepared ourselves and moved to the house of my brother, Anwar, which is a rented house close to Al Basheer Mosque in the same neighbourhood. We, the 17 of us, stayed there in my brother's small house for eight days. We heard sounds of explosions all the time and we were following the news closely.

In the morning hours on 5 January 2009, we were surprised by a strong explosion that shook the house.

I saw dust coming out from the southern room in the house. My nephews and I were sleeping in the house hall then, so I went to check the room. I found that the explosion was in the room and saw a big hole in the wall, from which I could see the street. My children were crying hard and the women were screaming. I carried and helped my children out of the house to the street. After we all calmed down, we decided to go to a UN shelter. My family and I moved to the Al-Faluja School, where UNRWA had opened a shelter. We spent the rest of the Israeli Cast Lead offensive days in this shelter.

After the offensive, I have noticed that my children started to have bad, fearful dreams. They wake up scared, crying and, sometimes, screaming in a strange way. My son Wisam started to fall unconscious frequently. I took him to psychotherapy by the psychological support teams that started to work in our refugee camp. The children's health is good now; however, they continue to have bad dreams and say they are scared. I repaired part of my house and we have returned to it because we could not find a house or apartment to rent."

6.6.9 Destruction of civilian homes with precision missiles

"He [battalion commander] said, 'In case of any doubt, take down houses. You don't need confirmation or anything, if you want.'"

Testimony of Israeli soldier, Breaking the Silence²⁰²

Many of the homes destroyed by Israeli forces during Operation Cast Lead were destroyed by precision missiles fired by Israeli jet planes, drones (unmanned aircraft) and helicopters. As these missiles are highly accurate, the attacks highlighted in this section constitute systematic and deliberate attacks on civilian objects.

CASE 39

The targeting of the home of the Jaddou' family by helicopter gunship missile

On 5 January 2009, at around 9:00pm, an Israeli helicopter gunship fired a missile at the house of Jaddou' family, which is located in As-Sabra neighbourhood in Gaza City. Three of the family members were killed: Hashim Awni Jaddou' (17) and two of his brothers aged 18 and 19.

CASE 40

The targeting of the Alawa family home by a drone missile

On 5 January 2009, at around 2:30pm, a surveillance drone fired a missile at the family home of Mo'min Mahmoud Talal Alawa (11) while he was playing with his bicycle on the roof terrace. He was killed immediately and two of the neighbours were injured. The house is in At-Tuffah neighbourhood near Al-Jolani Mosque.

CASE 41

The targeting of the Deeb family home by shelling

On 6 January 2009, at around 3:35pm, the Israeli army fired four shells in the vicinity of UNRWA's Jabalia Elementary School, located in Jabalia Refugee Camp and (also locally known as Al-Fakhoura School), which UNRWA had opened as a shelter for displaced civilians who escaped the fighting in north Gaza. The shells are believed to be GPS-guided artillery shells. Three of the shells landed and exploded in an open area opposite to the south-western part of the school yard. The other shells landed approximately

²⁰² See supra footnote 124.

50 metres west of the school, directly hitting two houses, which are inhabited by the families of two brothers; Mu'een and Samir Deeb. Eleven of the Deeb family members were killed, including five children: Esam (13); Mohammed (16); Mustafa (13); Asil (9); and Nour (3).

CASE 42

The destruction of the Ad-Dayah family home by air bombardment²⁰³

According to DCI-Palestine and Al Mezan documentation, on 6 January 2009, at around 6:00am, Israeli aircraft bombed the four-storey house of 60-year-old Fayeze Ad-Dayah, which is located in Az-Zeitoun neighbourhood in south-western Gaza City. The attack destroyed the house completely while its residents were inside it: 22 members of the Ad-Dayah family were killed; 12 of them were children and were identified as: Salsabil (4 months); Mohammed (7 months); Bara (1); Rab'a (2); Yousef (2); Areej (3); Sharaf (4); Qamar (5); Amani (6); 'Ala (6); Khetam (8) and Ali Ad-Dayah (10).



Body of a child being removed from the rubble of Ad-Dayah's family home 12 days after it was destroyed by an Israeli air missile (18 Jan. 2009). Photo credit: Al Mezan.

6.7 Impact on children

Even before Operation Cast Lead, the residents of 4,641 shelters housing approximately 28,000 people including 14,000 children were waiting for their homes to be rebuilt. These homes were destroyed in invasions carried out by Israeli troops in the period between the start of the Second Intifada in September 2001 and the launch of Operation Cast Lead. At least 3,600 shelters were completely destroyed during Operation Cast Lead housing approximately 21,000 people, of whom around 10,500 are children. Therefore, today, around 25,000 children are still waiting for their homes to be reconstructed.²⁰⁴ This figure does not take into account families living in partially destroyed houses which may or may not have been rendered uninhabitable.

A recent Save the Children report demonstrates that home demolitions have significant negative psychological effects on children.²⁰⁵ This study found that compared to children of similar demographics, children who had their home demolished fare significantly worse on a range of mental health indicators, including: withdrawal, somatic complaints, depression and anxiety, social difficulties, higher rates of delusional, obsessive and compulsive thoughts, delinquency and violent behaviour. These psychological symptoms have persisted, and are still present six months after the end of the offensive. Families have also reported deterioration in children's educational achievement and ability to study.

203 DCI-Palestine, *Operation Cast Lead: 12 children killed in 'mistake' air strike on their home* (5 Sept. 2009): www.dci-pal.org/english/display.cfm?DocId=1241&CategoryId=1 (accessed 6 Sept. 2009).

204 See supra footnote 187.

205 Save the Children, *Broken Homes: Assessing the Impact of House Demolitions on Palestinian Children and Families* (Apr. 2009): www.savethechildren.org.uk/en/docs/Broken_Homes_English_low_res.pdf (accessed 6 Sept. 2009).



Man sitting in the rubble of his home in Atatra neighbourhood, North Gaza. Photo credit: Al Mezan.

7. Destruction of Water and Sanitation Infrastructure

7. Destruction of Water and Sanitation Infrastructure

"The deterioration and breakdown of water and sanitation facilities in Gaza is compounding an already severe and protracted denial of human dignity in the Gaza Strip...At the heart of the crisis is a steep decline in living standards for the people of Gaza...and a marked downturn in the delivery and quality of vital services in health, water and sanitation"

Max Gaylard, the UN Humanitarian Coordinator for the Occupied Palestinian Territory, September 2009²⁰⁶

7.1 International law

The right to the highest attainable standard of health is a fundamental human right explicitly recognized in Article 12.1 of the ICESCR.²⁰⁷ In General Comment No. 14, the Committee on Economic, Social and Cultural Rights recognised that the right to health is closely related to, and dependent on, a number of other human rights, *inter alia*, "the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and movement."²⁰⁸ The right to health is also an inclusive right, incorporating not only health care, but also the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, and healthy occupational and environmental conditions.²⁰⁹ Pertinently relevant in light of the destruction caused by Operation Cast Lead, is the interrelation between the right to health, and the right to adequate housing (Article 11.1 of the ICESCR).

Furthermore, customary international law, binding on all States, prohibits attacks on civilian objects.²¹⁰

Human beings cannot live for more than a few days without water. Without safe water people, especially children, contract serious diseases which may eventually cause death. Since the start of the occupation in 1967, access to safe water in the OPT has been negatively affected by a series of Israeli policies: the Israeli authorities took control over Palestinian water resources, draining or confiscating wells, and prohibiting the building of new water infrastructure. As a result, during the following 42 years of occupation, the coastal aquifer became the main source of clean water in the Gaza Strip. As Gaza's population grew, and with it demand for clean water, the aquifer became increasingly depleted leading to deterioration in the water quality as sea water seeped in and salinated the supply. Israel's construction of facilities that divert groundwater from running into Gaza as well as facilities that extract water from the OPT for Israeli usage have greatly exacerbated the water crisis.²¹¹ At current, the World Bank reports that only 5-10 percent of the aquifer is yielding quality drinking water.²¹²

Israel's siege on the Gaza Strip has had additional grave consequences on Gaza's water and sanitation system. The functioning of wells, wastewater plants and sewage pumping stations in desperate need of replacement parts and renovation, declined rapidly as a result of Israel's refusal to allow the necessary materials into the Gaza Strip. As a result, by December 2008, most of Gaza's wells had ceased functioning, the remainder was working at half capacity, and supplies of chlorine - an indispensable chemical to ensure water disinfection - had run out.²¹³ In addition, Israel's tight restrictions on the supply of electricity to the Strip have prevented the effective functioning of sewage treatment plants and wells, and affected water distribution.

206 AIDA, Water and Sanitation Hygiene Cluster, (Statement), *Humanitarian organisations deeply concerned about the ongoing water and sanitation crisis in Gaza*, (3 Sept. 2009): <http://www.reliefweb.int/rw/rwb.nsf/db900SID/SKEA-7VJJBD?OpenDocument> (accessed 6 Sept. 2009).

207 International Covenant on Economic, Social and Cultural Rights: www2.ohchr.org/english/law/cescr.htm.

208 *General Comment 14, The Right to the Highest Attainable Standard of Health* (E/C.12/2000/4) (11 Aug. 2000): [www.unhcr.ch/tbs/doc.nsf/\(symbol\)/E.C.12.2000.4.En](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/E.C.12.2000.4.En) (accessed 5 Sept. 2009).

209 Ibid.

210 See Section 2.

211 Al Mezan, *The Impact of the Israeli Offensive on the Right to Water in the Gaza Strip* (Feb. 2009): www.mezan.org/upload/8675.pdf (accessed 6 Sept. 2009).

212 World Bank, *Assessment of Restrictions on Water Sector Development* (Apr. 2009): <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WaterRestrictionsReport18Apr2009.pdf> (accessed 6 Sept. 2009).

213 Ibid.

7.2 Attacks on the water and sanitation sector during Operation Cast Lead

Israeli military attacks on water and sanitation facilities during Operation Cast Lead therefore exacerbated an already critical public health situation in the OPT. In the 23-day military offensive, Israeli forces damaged 19,000 metres of pipes,²¹⁴ several vital water tanks and 112 wells, of which 74 were totally destroyed.²¹⁵ Sewage infrastructure was also the target of attacks. As Israeli forces have occupied the Gaza Strip for decades, it is likely that they have detailed information about the location of pipes, reservoirs and treatment plants in the Gaza Strip which raises serious questions about whether Israeli forces took the necessary measures to avoid destroying civilian infrastructure as required by international law. The following cases illustrate the type of attacks carried-out against water and sanitation facilities in the Gaza Strip during Operation Cast Lead²¹⁶:

7.3 Incidents

Case A

On 3 January, an Israeli air strike hit a water pipeline in the Middle governorate cutting off supply to three wells supplying water to 30,000 people including around 15,000 children.²¹⁷

Case B

During Operation Cast Lead, the generator of a pumping station in Beit Lahiya was hit by an Israeli strike. As a result it stopped operating and sewage collected in the street in a populated area.²¹⁸

Case C

During Operation Cast Lead a 16-inch pipeline from the main pumping station into the treatment plant in the north was hit by air strikes. Sewage flooded into populated areas.²¹⁹

Case D

On 10 January, one of the sewage reservoirs in the Gaza City waste treatment facility was bombed.

Case E

On 2 January, Israeli forces bombarded and destroyed water pipes transferring water from three wells to Nsseirat refugee camp and Az-Zahra City. As a result, 30,000 residents, including around 15,000 children, lost access to running water until the end of the invasion.²²⁰

Case F

During Operation Cast Lead, Israeli forces attacked a major road junction underneath which is a major water pipe that connects five to seven wells in North Gaza to Gaza City. These wells accounted for around 40 percent of the total water supply to Gaza City and deprived 200,000 residents, including around 100,000 children, of clean running water. The Coastal Municipalities Water Utility, in coordination with the ICRC, requested permission from the Israeli Coordination Unit in Erez to repair the pipes. This request was denied and the pipes were only repaired after the end of the invasion.²²¹

214 Figures provided by the Coastal Municipalities Water Utility to Al Mezan in February 2009.

215 Al Mezan, *The Impact of the Israeli Offensive on the Right to Water in the Gaza Strip* (Feb. 2009): www.mezan.org/upload/8675.pdf (accessed 6 Sept. 2009).

216 As the vast majority of attacks on water and sanitation facilities took place after Israeli forces secured control over the areas in which they are located, it has not been possible in all cases to determine the exact date of each attack, as Al Mezan fieldworkers were unable to safely access these areas until Israeli forces had withdrawn.

217 Coastal Municipalities Water Utility: Affidavit taken from Maher Najjar, Deputy Director, (Jan. 2009): www.gisha.org/index.php?intLanguage=2&intItemId=1428&intSiteSN=110&OldMenu=110 (accessed 7 Sept. 2009).

218 Ibid.

219 Ibid.

220 Ibid.

221 Ibid.

Case G

During Operation Cast Lead, Israeli forces attacked a former Israeli military base (the former Civil Administration Compound) located east of Jabalia which completely destroyed the El Edara well. The operator of the well was killed in the attack and the population of the entire surrounding area, of which around 13,000 are children, lost their main source of running water.²²²

Case H

During Operation Cast Lead, Israeli forces bombed an electrical transformer that powers the Ash-Sheikh Ijleen well which provides water to the surrounding area. A repairman risked his life to fix the well and restore services.²²³

Case I

During Operation Cast Lead, the Gaza Wastewater Treatment Plant was attacked, flooding more than 100,000m³ of wastewater into agricultural areas.²²⁴

7.4 Impact on access to safe water

The attacks on water and sanitation facilities, already in a state of severe disrepair, coupled with almost total electricity blackouts in many areas of the Gaza Strip for days at a time had grave consequences for the civilian population.

During Operation Cast Lead itself, 500,000 people including around 250,000 children lost complete access to running water; a further 500,000, including around 25,000 children had access to water for only several hours a week; and the remaining third of the population received water for 4-6 hours every two or three days.²²⁵ Even after the withdrawal of Israeli troops, it took months for aid agencies to restore water access to pre-December 2008 levels. As of 3 September 2009, 10,000 people remained without access to the water network and an additional 60 percent of the population do not have continuous access to water.²²⁶

Date	No. persons with no access to running water	No. children with no access to running water
15 Jan. 2009	500,000	250,000
18 Jan. 2009	400,000	200,000
9 Feb. 2009	50,000	25,000
2 Mar. 2009	50,000	25,000
23 Mar. 2009	40,000	20,000
30 Mar. 2009	35,000	17,500
2 Apr. 2009	32,000	16,000
2 May. 2009	28,000	14,000
23 Jun. 2009	18,000	9,000
14 Jul. 2009	10,000	5,000

Table 2: Restoration of access to water in Gaza, 15 January - 14 July 2009. Source: Al Mezan²²⁷

²²² Ibid.

²²³ Ibid.

²²⁴ Emergency Water and Sanitation Hygiene Group (EWASH), *A brief outline of the sewage infrastructure and public health risk in the Gaza Strip for the WHO*, April 2009: <http://unispal.un.org/unispal.nsf/0/cc7bb3e8ee2408238525759f004c9a02?OpenDocument> (accessed 6 Sept. 2009).

²²⁵ OCHA, *Humanitarian Monitor* (Jan. 2009): http://www.ochaopt.org/?module=displaysection§ion_id=118&format=html (accessed 6 Sept. 2009).

²²⁶ AIDA, Water and Sanitation Hygiene Cluster, (Statement), *Humanitarian organisations deeply concerned about the ongoing water and sanitation crisis in Gaza*, 3 September 2009: <http://www.reliefweb.int/rw/rwb.nsf/db900SID/SKEA-7VJJBD?OpenDocument> (accessed 15 Sept. 2009).

²²⁷ Figures collated from: OCHA, *The Humanitarian Monitor*, *Humanitarian Update*, and *Protection of Civilians* (weekly and monthly humanitarian reports), January-July 2009, available at www.ochaopt.org (Weekly and monthly humanitarian update reports and protection of civilian reports). Figures for children were estimated by Al Mezan based on average Gaza households comprising 50 percent children.

As well as reducing access, Israeli attacks resulted in the contamination of Gaza's water supplies with mass amounts of sewage flooding into the water system in a number of areas in the Strip, especially in areas of North Gaza where sewage flowed into water pipes as a result of damage sustained. The drinking water in the Az-Zeitoun, Tal Al-Hawa and Sheja'iya neighbourhoods was also contaminated by damage to infrastructure.²²⁸ In February, the Public Health Lab in Gaza collected 248 water samples from wells, water networks and water treatment plans throughout the Gaza Strip and found 45 of these samples to be contaminated; mainly in the North Gaza and Gaza governorates.²²⁹ Some 50-80 million litres of untreated and partially treated wastewater are still being discharged daily into the Mediterranean Sea.²³⁰

7.5 Health consequences for Gaza's children

The two-year siege, coupled with the destruction inflicted on the water and sanitation sector during Operation Cast Lead continues to seriously affect the health and threaten the lives of Gaza's children. In January 2009, OCHA reported that water diarrheal diseases among children aged 0-3 had increased by 18 percent over the previous year, stating that this was *"assumed to be related to war-related damage to water supply systems."*²³¹ The WHO warned in the same month that while cholera has not been reported in the Gaza Strip since 1992, the *"risk of outbreaks of waterborne and food borne diseases is currently high and will increase if water, sanitation and food control services are not restored or are allowed to deteriorate further."*²³² Young children are particularly vulnerable to cholera; it causes diarrhoea which can lead to severe dehydration and death.

In addition, the sewage infiltration into the aquifer and the resulting contamination of underground waters is attributed with raising nitrate levels in water wells in some areas of the Gaza Strip to more than twice the recommended WHO level.²³³ Medical studies indicate that the contamination of drinking water supplies with nitrates can cause methaemoglobinaemia, a deadly blood disease affecting infants known as 'blue baby' syndrome. The discharging of significant volumes of raw and untreated sewage into the sea also poses grave risks - particularly to the thousands of children who play there each summer, as it is one of the only recreational activities available in Gaza. Al Mezan spoke with Dr. Yahia Abed about the impact of the current situation on children. He highlighted the impacts of the water and sanitation situation and also raised serious concerns about the impact of inadequate housing on the health of newborns as the winter approaches.

228 World Bank, *Assessment of Restrictions on Water Sector Development* (Apr. 2009): <http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WaterRestrictionsReport18Apr2009.pdf> (accessed 6 Sept. 2009).

229 OCHA, Field Update from Gaza from the Humanitarian Coordinator, 17-23 February, 2009: http://www.ochaopt.org/gazacrisis/admin/output/files/ocha_opt_gaza_humanitarian_situation_report_2009_02_23_english.pdf (accessed 6 Sept. 2009).

230 AIDA, Water and Sanitation Hygiene Cluster, (Statement), *Humanitarian organisations deeply concerned about the ongoing water and sanitation crisis in Gaza*, 3 September 2009 www.reliefweb.int/rw/rwb.nsf/db900SID/SKEA-7VJJBD?OpenDocument (accessed 7 Sept. 2009).

231 OCHA, Field Update from Gaza from the Humanitarian Coordinator, 10-16 March, 2009: http://www.ochaopt.org/gazacrisis/admin/output/files/ocha_opt_gaza_humanitarian_situation_report_2009_03_16_english.pdf (accessed 6 Sept. 2009).

232 WHO, *Disease Risk Assessment and Interventions, Gaza Strip* (Jan. 2009). www.who.int/diseasecontrol/emergencies/EPR_DCE_2009_1.pdf (accessed 6 Sept. 2009).

233 OCHA, *Humanitarian Monitor* (May 2009): http://www.ochaopt.org/documents/ocha_opt_humanitarian_monitor_2009_05_15.pdf (accessed 6 Sept. 2009).

Interview with Dr. Yahia Abed, Public Health Expert based in Gaza, 7 September 2009²³⁴

"There is no doubt that there are hazards to children from the health and sanitation situation in the Gaza Strip. This scientific base is applied all over the world and it of course applies also to Gaza's children. Watery diarrhoea, bloody diarrhoea and viral hepatitis...they are all indicators. They indicate that the water isn't clean. If these illnesses occur, other hazards could be present which we are not monitoring. These illnesses, they are a chronic problem in Gaza. It isn't only the siege which is affecting the population here. Before the siege, it was the Intifada, before, it was the occupation itself. Our children are being admitted to hospitals from different types of disease and infant mortality is five to ten times higher than it is in Israel. This high rate can be attributed in part to the water and sanitation situation here."

Dr. Abed explained that the impacts are wide-reaching: *"First, the water and sanitation situation impacts upon the health of children. The recurrent diarrhoea causes malnutrition and this in turn means recurrent infection and other diseases. All of this impacts on the rest of the family. The health care system itself is also affected. Services have to concentrate their efforts on addressing diarrhoea diseases and so on."*

Dr. Abed also warned that damage caused to shelters has major ramifications on child health in the coming months. *"The damaged shelters affect children in a serious way. I can't control respiratory infections if the shelters are bad. When the winter comes, a major problem will appear among newborns. We call it 'cold injury'. There are high fatalities from this among newborns. It's not a virus or bacteria, it's a shelter problem. Newborn children cannot control their body temperatures. There are still people in tents, people have damaged shelters, they can't even buy glass to replace the windows because of the siege - the prices in the shops are ten times higher than normal prices."*

7.6 Conclusion

Gazan medical personnel and facilities, already at breaking point due to the siege, do not have the capacity to comprehensively monitor the impact of this grave public health situation on Gaza's children. It is therefore not known how many children may have already died, or suffered debilitating diseases as a result. It is, however, certain that the lives of Gaza's youngest residents are seriously at risk; a risk that is entirely man-made and can be averted if the State of Israel ends its siege on Gaza.

²³⁴ Al Mezan documentation.



Amir, Mohammed, Bashir and Osaid simulating how they were blindfolded and handcuffed. Photo credit: DCI-PS.

8. Detention - Children Arrested and Detained in the West Bank during Operation Cast Lead

8. Detention - Children Arrested and Detained in the West Bank during Operation Cast Lead

8.1 Summary

The first three months of 2009 saw a significant increase in the number of Palestinian children arrested and detained by Israeli authorities in the West Bank. The figures peaked in February 2009 with numbers not recorded since 2005. In the same period, DCI-Palestine investigated two incidents involving the mass arrest and detention of children in their villages.

According to DCI-Palestine's data, many children arrested and detained in the first three months of 2009 were younger than average, they were charged with more minor offences, and received shorter sentences. These arrests were characterised by an unusual level of physical abuse against detainees - a trend recently confirmed by testimonies from Israeli soldiers.

8.2 Definition and overview

Each year, approximately 700 Palestinian children from the West Bank are arrested, interrogated and prosecuted in Israeli military courts, and imprisoned for months or sometimes years, often inside Israel. Since 2000, over 6,500 Palestinian children have been detained.²³⁵ Arrest and interrogation techniques used by the Israeli army, procedures in the military courts, and the conditions in which children are detained routinely fail to comply with international human rights and humanitarian law, to the extent that many of the cases can be considered cases of arbitrary detention, as per the definition of the UN Working Group on Arbitrary Detention.²³⁶

Palestinian children are arrested at checkpoints, off the street or from the family home, and are seldom informed of the reason for their arrest. The child is often beaten, blindfolded and handcuffed with plastic ties before being placed in a military vehicle, where further abuse takes place on the way to the interrogation and detention centre. It is only during interrogation that the child is usually informed of the accusations against him/her²³⁷. Common interrogation techniques used against children include beating, kicking, position abuse, verbal abuse and threats²³⁸ - in almost all cases children confess. The children are then taken to a military court where they are sentenced on the basis of these confessions, some of which are written in Hebrew - a language few Palestinian children speak or understand. After sentencing, the child is sent to one of five Israeli prisons, four of which are inside Israel in contravention of the *Fourth Geneva Convention*.

8.3 International law

Israel has imposed military law on the West Bank and Gaza Strip since the beginning of the occupation in 1967. There are now over 1,500 military orders in operation which govern the lives of Palestinians in the West Bank and are enforced in two Israeli military courts.

Israel, as the Occupying Power, has the right under international humanitarian law to establish military courts in the OPT to try Palestinians accused of offences under military law. However, Israel's military

²³⁵ DCI-Palestine, *Palestinian Child Prisoners: The systematic and institutionalised ill-treatment and torture of Palestinian children by Israeli authorities* (11 Jun. 2009): www.dci-pal.org/english/publ/research/CPReport.pdf, page 8 (accessed 6 Sept. 2009).

²³⁶ The UN Working Group on Arbitrary Detention provides three categories of cases whereby detention can be considered arbitrary detention. Category 3 provides that cases are to be considered arbitrary "when the total or partial non-observance of the international norms relating to the right to a fair trial, spelled out in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character". Office of the High Commissioner for Human Rights, *The Working Group on Arbitrary Detention - Fact Sheet no. 26*, p.6.

²³⁷ The most common are: stone throwing, attempting to kill, possessing weapons, belonging to a banned organisation.

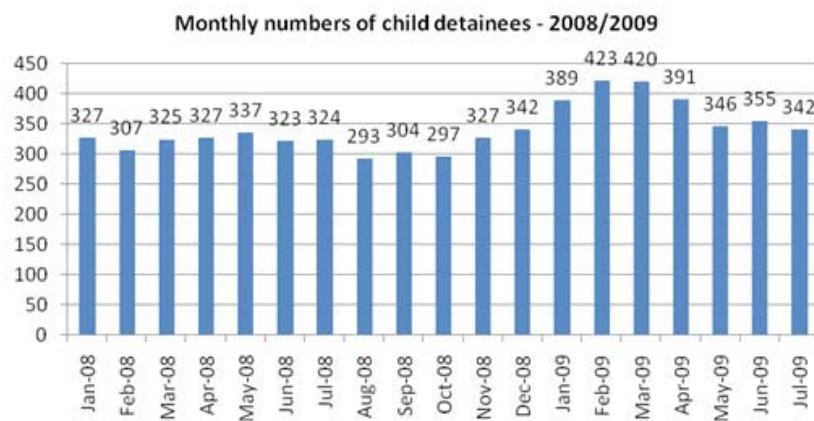
²³⁸ See supra footnote 235.

court system systematically fails to comply with the fundamental fair trial rights required by applicable international legal standards.²³⁹ For instance, once arrested, children are invariably denied access to a lawyer until the end of the interrogation process, once a confession has been obtained under duress. This system has operated for 42 years in violation of these obligations and almost completely devoid of international scrutiny.²⁴⁰

8.4 Violation trends

According to figures compiled by DCI-Palestine from sources including the Israeli Prison Service (IPS), the number of Palestinian children detained in Israeli prisons and detention centres inside Israel and the OPT rose sharply during Operation Cast Lead.

There were 389 children detained at the end of January 2009 and 423 detained at the end of February 2009. This compares to a monthly average of 319 children detained at any one time in 2008 (see Graph 3).²⁴¹ The February 2009 child detainee figure, marking a peak, represents a 37.8 percent increase over the corresponding period in 2008. According to B'Tselem's records, such high numbers of child detainees have not been observed since August 2005.²⁴²



Graph 3. Source: DCI-PS

The average number of children represented by DCI-Palestine per month increased from 17 throughout 2008 to 23 in the first three months of 2009; 36 percent of cases taken on by DCI-Palestine in January-March 2009 were for children aged 12-15 (see Table 3). This compares to approximately 23 percent in 2008,²⁴³ suggesting that more young children were arrested and imprisoned by the Israeli authorities in the first quarter of 2009.

²³⁹ See for example: the International Covenant on Civil and Political Rights (1966) (ICCPR), Articles 9 and 14; the Third Geneva Convention (1949), Articles 84 and 99 to 105; the *Fourth Geneva Convention* (1949), Articles 66, 67 and 71 to 73; and Rule 100 of the ICRC's Customary International Humanitarian Law, Volume 1: Rules.

²⁴⁰ See supra footnote 235.

²⁴¹ Note that monthly figures represent a snapshot number of Palestinian child detainees at the end of each month and should therefore not be cumulated.

²⁴² B'Tselem is an Israeli human rights organisation. Its statistics on Palestinian minors in detention in Israeli Prison Service (IPS) facilities and Israeli military facilities indicate that 451 under-18s were detained in August 2005, although the monthly average of detainees was significantly less than in 2009. See http://www.btselem.org/English/Statistics/Minors_in_Custody.asp - but note disclaimer 1 at the bottom of the page.

²⁴³ See supra footnote 235.

12-13 years old	11	16%
14-15 years old	14	20%
16-17 years old	44	64%
Total	69	100%

Table 3: Ages for all cases received by DCI-Palestine in January-March 2009. Source: DCI-PS

Among the 61 children represented by DCI-Palestine in the military courts in the first three months of 2009, 61 percent were charged with throwing stones (see Table 4). This compares to an annual figure of approximately 27 percent in 2008,²⁴⁴ suggesting that more children were arrested during demonstrations and protests in the first quarter of 2009, and for more minor offences.

Throwing stones	37	61%
Membership in a banned organisation	4	7%
Throwing Molotov cocktail	8	13%
Shooting	1	2%
Possession of a gun	7	11%
Possession of explosives	4	6%
Total	61	100%

Table 4: Type of charges against children represented by DCI-Palestine in Israeli military courts (for cases received in January-March 2009). Source: DCI-PS

All 61 children represented by DCI-Palestine in the first three months of this year received prison sentences of less than 12 months. In 2008, more than 28 percent of children represented by DCI-Palestine in military courts received sentences of more than 12 months (see Table 5). This is unusual and confirms the previous observation that, in the first quarter of 2009, many more children were arrested for minor offences.

Sentence	All 2008 cases	Jan.-Mar. 2009 cases
Under 6 months	41%	87%
6-12 months	30%	13%
1-3 years	14%	0%
Over 3 years	15%	0%

Table 5: Length of sentences received by children represented by DCI-Palestine in 2008/2009. Source: DCI-PS

8.5 Violation incidents

In the first three months of 2009, DCI-Palestine investigated two cases involving the mass detention of children from their villages.

On 26 March 2009, up to 90 children were detained from the village of Haris, near Salfit. According to information obtained from the school headmaster, Israeli soldiers entered the village at around midnight and placed it under curfew; they then proceeded to remove children from their homes and detain them in the village secondary school for almost a day. According to the mayor of the village, the Israeli army's stated reason for the incursion was that stones had been thrown at military vehicles using nearby Route 505, a bypass road for Israeli settlers and military vehicles. Four children were arrested.

²⁴⁴ Ibid.

During the night of 19 January, units of the Israeli army entered the village of Tura al Gharbiya, near Jenin and rounded up a number of children, accusing them of throwing stones at the Wall²⁴⁵. Seven children were arrested; DCI-Palestine collected affidavits from five of the seven and one father.²⁴⁶ According to these affidavits, Israeli soldiers stormed and searched houses in Tura al Gharbiya between 11:30pm on 19 January and 6:00am the next day. The village is located west of Jenin, in the north of the West Bank. The route of the Wall being built by Israel throughout the West Bank runs through lands belonging to the village.

CASE 43

Detained:	Amir (13), Bashir (12), Osaid (12), Mohammed (13) and Imad (15)
Date of arrest:	19-20 January 2009
Accusation:	Throwing stones at the Wall
Location of incident:	Tura al Gharbiya, Jenin
Affidavits taken by:	DCI-Palestine from Amir, Bashir, Osaid, Mohammed and Imad, on 7 February 2009, and from Hatim A (Mohammed's and Imad's father), on 15 April 2009.

At approximately 6:00am, soldiers entered Amir's house: *"I was very scared because I did not expect them in my bedroom. The intelligence officer who was with them then told my father they would take me with them. I was terrified. My father refused and insisted on accompanying me because I am young. He argued with them and they threatened to hit him in front of me."* [...] *"They entered my sisters' bedroom and approached them to make sure they were girls. My sister, Suha (20) asked them to let her go to do her exam at Al Quds Open University in Jenin. My father asked them the same, but they refused and said that the whole village was under curfew. One of them threatened my father and wanted to hit him to shut him up and make him stop arguing and only respond to their questions. They then took me and my father to the house yard. They tied my father's hands behind his back."* (Amir, 13)



Amir, Mohammed, Osaid and Bashir simulating how they were handcuffed as they were detained. Photo credit: DCI-PS.

A curfew had been imposed on the entire village. The children arrested were taken to the youth club - most of them were accompanied by their fathers. Imad (15) reported: *"One of the soldiers hit me with his rifle on the upper side of my back at the gate of the club. 'Why did you hit me?' I asked him. 'It's none of your business,' he said."* The same happened to Amir: *"[A soldier] hit me three times with the barrel of his assault rifle in the back. 'Why did you hit me?' I asked. 'Because you're a big boy and you can bear it,' he answered. He hit me for a fourth time."*

²⁴⁵ Israel has been building a barrier (the Wall) throughout the West Bank since 2002, which it states is a 'security fence' to protect Israeli civilians from Palestinian militant attacks. It consists of 8-metre high concrete walls, ditches, trenches, wire fences, patrol roads and barbed wire. However, the overwhelming majority of the planned route of the barrier (86%) runs inside the West Bank, and not on the Green Line, and hundreds of dunums of land belonging to Palestinians that lie near the route of the barrier have been confiscated and/or declared off-limits to its owners. The International Court of Justice (ICJ) opined in July 2004 that the Wall route in the West Bank is illegal under international humanitarian and human rights law. For more information, see OCHA-oPt, The West Bank barrier: http://www.ochaopt.org/?module=displaystory§ion_id=130&story_id=1456&format=html&edition_id= (accessed 12 Sept. 2009).

²⁴⁶ DCI-Palestine represents 30-40 percent of all Palestinian children prosecuted in Israeli military courts. The affidavits were collected by DCI-Palestine lawyers and fieldworkers from the children upon their release.

Inside the club, Hatim A (father of Mohammed and Imad) reported: “[the soldiers] were eating, drinking, and laughing at us detainees. The children were very scared. My children were terrified upon seeing the large number of soldiers with their painted faces. A person could think that the club was a military barracks.” He entered a room and saw about ten children: “I noticed fear and even horror in their eyes. They smiled when I walked in because they felt comfortable upon seeing me. A soldier immediately walked in holding a photo album. ‘I’m an interrogator working with the army,’ he introduced himself. ‘We want to destroy your town and arrest your children to teach them not to throw stones at the Wall,’ he added.”

Soldiers asked the children to sit in a yard; they were prevented from talking to each other. There were about 15 military jeeps and a large number of soldiers and policemen there. The children were then interrogated one by one. Osaid reported: “‘Why did you throw stones at the Wall?’ The officer then directly asked me. ‘I didn’t throw stones at the Wall,’ I answered. ‘Why did you throw stones at the Wall?’ He asked me in a scary manner while shouting at me. I thought he was going to hit me. ‘Why did you throw stones at the Wall?’ he shouted at me more than five times. ‘I didn’t do it,’ I answered him each time he asked.’ Amir reported the same type of threat during his interrogation: ‘The soldiers then took me to a room and asked me about throwing stones. ‘I didn’t throw any stones,’ I said. ‘Is this your photograph?’ asked the officer. ‘No, it’s not,’ I answered. It was not my photograph. ‘Even if it’s not you, we’re going to arrest you anyway,’ said the officer. [...] I was scared because they threatened to hit me and take me to Israeli intelligence to detain me.’” Bashir (12) reported “They did not beat us, but they threatened to transfer me to the Israeli intelligence if I did not confess of throwing stones.”

After interrogation, the fathers were asked to leave - some of them were told that the children would be released. The children were then taken to a room where they saw each other for the first time. They stayed there until 10:00am, still not permitted to talk to each other. At 10:00am, they were put into military vehicles and transferred to Salem Detention and Interrogation Centre. The transfer lasted for an hour. The boys were taken for further interrogation, one by one.

Imad (15): “The interrogator was wearing a police uniform. He asked me about my name and whether I threw stones. I told him I did not throw stones. He slapped and shouted at me. I heard someone’s voice outside the room. ‘There’s someone outside waiting for me to let him beat and smash you,’ he said. That scared me; therefore I told him I had thrown stones. ‘At what? The Wall or a jeep?’ he asked. ‘At the Wall,’ I said. ‘How many stones?’ he asked. ‘Two,’ I answered. The interrogator asked me to sign a document written in Arabic. I read it and signed because I was scared.”

Mohammed (13): “There was an interrogator in police uniform inside the room. He asked me for my name and questions about throwing stones at the Wall. ‘We’ll beat and detain you,’ he threatened. I told him I did not throw any stones. He shouted at me; his face became red and his voice was loud. He asked me to look at his big hands and feet. He said I will not be able to bear his beating. That scared me and made me say that I threw stones twice at the Wall. He made me sign a paper that was written in Hebrew and Arabic.”

Osaid (12): “The interrogator began shouting at me. ‘You need to be raised all over again,’ he said. ‘Your friend confessed that you threw stones when you participated in Gaza demonstrations. We have photographs of you throwing stones,’ he said. ‘Those are edited photographs. They show me carrying nothing,’ I said. He became angry. He began banging on the table inside the room. ‘You’ll confess or you will be beaten and detained for a long time by the Intelligence,’ he said. I then told them I threw stones once because I was scared of him since he had threatened to beat and detain me.”

Amir (13): “The interrogator was a police officer who asked me about throwing stones. I said I did not throw any stones. ‘Is this your photograph?’ he asked. ‘No, it’s not,’ I answered. I spent about half an hour in the interrogation room. He began shouting at me that I should confess and not deny it. He threatened to beat and detain me. He had a baton with him. He then asked me to sign a document

written in Hebrew. I signed the paper. Something in Arabic was also written on it, but I did not read it because he did not allow me to."

Bashir (12): *'Why do you throw stones? He asked. 'Because you confiscated our lands, and for Gaza,' I replied. 'We'll detain you. You threw stones more than twice as it appears in the photos,' he said. 'I threw stones only twice,' I said. The interrogator made me sign a document written in Arabic without allowing me to read it.'*

After confessing, the children were searched and partially stripped, and had a medical examination. Then they were taken to different cells and kept in detention two more days *"They scared us and shouted at us. They hit the window of the room from outside. The room had a small barred window. They would suddenly hit the bars at night, and that really scared us."* (Bashir)

On Thursday 22 January, the children were all taken to court. They were released on bail at 6:00pm. They remained in detention until the money was paid. The parents of the children were required to pay between NIS 1,500-3,500 (US \$375-875) each for the release of their children. Their next court appearance was scheduled for 15 February. On that day, the five children were fined NIS 750 and sentenced to one month on probation each.

8.6 Conclusion

DCI-Palestine and IPS data clearly indicate a sharp increase in the number of children arrested, prosecuted and imprisoned by Israeli authorities for security reasons in the first three months of 2009.

The fact that many of these children were younger than the average child detainee and the fact that the majority were charged with minor offences suggest that this increase is the result of children's participation in a high number of demonstrations in the West Bank during Operation Cast Lead, and a corresponding increase in use of force, including mass arrest, by Israeli authorities to suppress and discourage these protests, or any potential show of resistance.

On 6 March 2009, the President of Defence for Children International (DCI) wrote to the then Israeli Minister of Justice, Daniel Friedmann, seeking an explanation for the sharp increase in the number of Palestinian children being detained by Israel and notified the UN Committee on the Rights of the Child of these developments. To date, DCI has not received a response.

"I don't want to live here anymore. It's too dangerous. I don't feel safe anywhere. Even my school was attacked. No-where is safe anymore. A week ago, I saw tanks from the window near the border. I was so scared. They could be here in five minutes. So I packed all my new clothes and my new toys and my photos and got everything ready to leave. I told my dad I wanted to leave."

Lamis A (12)



Girls on their way to school in Gaza. Photo credit: Maja Hitič.

9. Conclusion

9 CONCLUSION

Operation Cast Lead was characterised by the serious and extensive disregard of fundamental principles of international law. Disproportional and indiscriminate attacks against civilian objects and civilian population caused widespread civilian casualties, of which almost one third were children.

The authors of the report are particularly concerned with the latest practices used by the Israeli forces that directly violated children's rights as protected persons, causing numerous casualties and injuries that cannot be justified under military necessity.

Direct attacks on civilians clearly conveying their non-combatant status by waving a white flag and the elevated indices of casualties as a result of the use of high-precision weapons, which can capture detailed images of potential targets, are alarming and reflect Israel's lack of respect for its international obligations under human rights and humanitarian law.

Other serious violations such as the indiscriminate use of white phosphorous; the use of children as human shields; the obstruction of medical access to the wounded and sick and the target of protected objects, such as ambulances attempting to evacuate; constitute grave violations of the *Geneva Conventions*²⁴⁷ and amount to war crimes.

On 15 September 2009, the UN Fact-Finding Mission chaired by Justice Richard Goldstone released a report detailing compelling evidence of serious violations committed by Israel against Palestinian children during Operation Cast Lead. Al Mezan and DCI-Palestine are urging international mobilization to ensure that perpetrators of these crimes are held accountable and such grave violations are no longer committed.²⁴⁸

As stressed by Justice Goldstone, the need for accountability after Operation Cast Lead goes beyond mere reparation: "the prosecution of persons responsible for serious violations of international humanitarian law would contribute to ending such violations, to the protection of civilians and to the restoration and maintenance of peace".²⁴⁹

The children of Gaza are once more bearing the brunt of a brutal Israeli military offensive, and, although the majority of damages caused are irreparable, it is the responsibility of the international community to provide them with an effective response and endeavour to prevent further violations of their rights.

²⁴⁷ Article 147 of the *Fourth Geneva Convention*.

²⁴⁸ See Recommendations on p.12.

²⁴⁹ Human Rights Council, Report of the United Nations Fact Finding Mission on the Gaza Conflict, (A/HRC/12/48), (15 Sept. 2009): www2.ohchr.org/english/bodies/hrcouncil/specialsession/9/docs/UNFFMGC_Report.pdf, page 545 (accessed 19 Sept. 2009).



Gaza family move on cart next to the rubble of destroyed homes in east Jabaliya. Photo credit: Maja Hitij.

Annexes

ANNEX 1 - Methodology on documentation of human rights and humanitarian law violations

The monitoring and documentation of human rights violations is the cornerstone of the work of Al Mezan and DCI-Palestine. In the absence of credible and reliable information about the perpetration of human rights violations and war crimes, and their impact on the victims, the pursuit of justice and accountability is futile. The object of this short briefing note is to explicate how both organisations document allegations of human rights violations, and why their documentation is a valid and reliable source of data informing the human rights situation in the Occupied Palestinian Territory.

Al Mezan and DCI-Palestine monitor, document and report on human rights violations arising daily from the conflict and military occupation. Al Mezan documents all types of human rights violations including *inter alia*: unlawful killing; maiming; torture; destruction of civilian objects; attacks on civilians; and arbitrary detention. DCI-Palestine specializes in violations of children's rights as set out in the UN Convention on the Rights of the Child and focuses on the right to life, the right to freedom, the right to be free from physical and mental violence, and the right to education.

1 Initial identification of potential human rights violations

Al Mezan and DCI-Palestine identify potential violations through two main avenues: victims' reports and field monitoring. Al Mezan is a well-known Gaza-based human rights organisation in operation since 1999 and victims of human rights violations regularly contact one of Al Mezan's three offices located across the Gaza Strip for assistance; in addition, Al Mezan's five experienced fieldworkers based throughout the Gaza Strip use their strong community links to identify potential cases of human rights violations. Similarly, DCI-Palestine receives reports from children and parents in any of its four West Bank offices and through Gaza-based fieldworkers; however, most investigations are initiated following ongoing and proactive field monitoring from nine fieldworkers across the West Bank and Gaza Strip.

2 Field investigations and evidence collection

To investigate allegations of human rights violations, and enable corroboration and verification, Al Mezan and DCI-Palestine collect extensive evidence including victims' testimonies, eyewitness statements, violations incident questionnaires, photographs, physical evidence and medical records.

- **Victims' testimonies and eyewitness statements:** Fieldworkers and/or lawyers take sworn affidavits from victims, family members and friends of the victims, and witnesses present at the scene of an incident - including medical and emergency workers. Neither organisation relies on media reports, hear-say or any other second-hand evidence. Testimonies and statements are then reviewed by lawyers and human rights documentation professionals to check for gaps or inconsistencies and to ensure the statements corroborate each other. Fieldworkers frequently go back to the source in order to verify details and correct any data inconsistency. Fieldworkers and lawyers have been trained in interview techniques to ensure that information received is valid and reliable. Fieldworkers are experienced in exercising judgment about the credibility of witnesses, and the possible influence on responses of gender or the psychological state of the witness. Fieldworkers and lawyers are also aware of fundamental child protection principles relating to interviewing and photographing child victims of violations. Consent for use and publication of data taken from victims and their families is required and systematically solicited.
- **Violation questionnaires:** Fieldworkers and lawyers also complete a comprehensive questionnaire for all allegations of human rights violations. Al Mezan and DCI-Palestine use different questionnaires for killing, maiming, torture, house demolitions and violations to the right to education. These questionnaires ensure the collection of standardized information such as: identity and personal

history of the victim; the cause and manner of death; the type and location of injury; details of those who are suspected to be responsible for perpetrating the violation; extent of damage caused to property, etc. The collection of standardized data allows for all information to be entered into a database and for time, geographic, thematic, and statistical reports or analyses of incidents to be made.

- **Medical evidence:** Fieldworkers acquire copies of medical certificates or autopsy reports that confirm details such as the victim's injuries, the cause of death, the manner of death and the place of death.
- **Physical evidence:** Fieldworkers photograph all evidence pertaining to human rights violations including damage to property, remnants of ammunition and injuries. Whenever possible, remnants of ammunition are gathered from the location.
- **Expert evidence:** Al Mezan and DCI-Palestine also seek expert opinion on certain cases which require specialized information. In the past, Al Mezan has requested expert opinion from military experts, doctors, forensic experts and psychiatrists.

3 Data verification and information management

Once investigations are completed and cases fully investigated, case files are entered into a custom built database which enables analysis according to several indicators including: type of violation, residence/age/gender of victim, date of incident, location of incident, identity of perpetrator, etc. Fieldworkers and the Documentation Unit Coordinators give data entries a final review to ensure consistency with the questionnaires.

ANNEX 2 - List of case studies

Section 3: Killing and Maiming of Children and Obstructed Medical Access to Injured Children

3.4.1. Aerial attacks on day 1 of the offensive	Case 1: Ahmed As-Sinwar
3.4.2. Obstruction of medical access	Case 2: Mohammed and Faris Hammouda Case 3: Feda', Ibrahim and Rakan Al-Err
3.4.3. White flag killings	Case 4: Amal, Suad and Samar Abed-Rabbo
3.4.4. Drone attacks	Case 5: Mohammed, Abed-Rabbo and Abed-Sattar Al-Astal
3.4.5. Targeted assassinations	Case 6: Hossam, Ahmed and Sahar Isleem
3.4.6. A knock on the roof	Case 7: Diya', Rana, Baha' and Rola Salha
3.4.7. White phosphorous attacks	Case 8: Shahd, Hamza, Zaid and Abdel Raheem Abu Halima Case 9: Ahmed Khudair Case 10: Nansi Wakid Case 11: Jihan Al-Helu Case 12: Iyad Shehadeh Case 13: Leila, Akram and Mohammed Ar-Rai
3.4.8. Children killed while trying to flee to safety	Case 14: Mohammed and Matar Abu Halima Case 15: Alaa' Al-Haddad Case 16: Sondos Sa'eed
3.4.9. Injuries	Case 17: Falastine T Case 18: Ayman A

Section 4: Human Shields

4.5.1. Al-Atatra	Case 19: 'Ala A, Ali A, Nafiz A, Hussein A and Khalil A
4.5.2. Ezbet Abed Rabbo, Jabalia	Case 20: Amin Case 21: Majed R

Section 5: Attacks on Schools and the Right to Education

5.4.1. Balqis Al-Yaman School	Case 22: Yasmin and Hanin Dhaban Case 23: Mustafa Abu Ghanima
5.4.2. Bir Al-Sabea Secondary School	Case 24: Ahmed Abu Jazar and Mahmoud Abu Nahlah
5.4.3. Al-Fakhoura Elementary School	Case 25: Ibrahim Ma'rouf Case 26: Bilal and Omar Obaid Case 27: Ismail and Hasan Hawila
5.4.4. Mashrou Boys School	Case 28: Bilal and Mohammed Al-Ashkar

Section 6: Destruction of Civilian Homes

6.6.1. Al Qarara town, east of Khan Younis	Case 29: Abdel Ra'ouf Ash-Sheikh Ahmed Case 30: Ghazi Abu Dhahir
6.6.2. Al Fukhari village, east of Khan Younis	Case 31: Fatma Al-Amour

6.6.3. Ezbet Abed-Rabbo neighbourhood, North Gaza Governorate	Case 32: Lamis A Case 33: Sameeh Ash-Sheikh
6.6.4. Yebna neighbourhood of Rafah in south Gaza	Case 34: Sa'ad El-Farra
6.6.5. The bombardment of Rafah border area	Case 35: Wa'el Qishta
6.6.6. The destruction of Az-Zeitoun neighbourhood	Case 36: Jamal Malaka
6.6.7. As-Salam neighbourhood in Rafah	Case 37: Mhareb Al-Raqiba
6.6.7. Tal Az-Za'tar neighbourhood, North Gaza governorate	Case 38: Ahmed Salha
6.6.7. Destruction of civilian homes with precision missiles	Case 39: The targeting of the home of the Jaddou' family by helicopter gunship missile Case 40: The targeting of the Alawa family home by a drone missile Case 41: The targeting of the Deeb family home by shelling Case 42: The destruction of the Ad-Dayah family home by air bombardment
Section 8: Detention - Children Arrested and Detained in the West Bank during Operation Cast Lead	
8.5. Violation incidents	Case 43: Amir, Imad, Mohammed, Osaid, Bashir



Al Mezan Centre for Human Rights

5/102 - 1 Al Mena
Omar El-Mukhtar Street
Western Rimal
Gaza City
Tel/Fax: +972 (0) 8 2820442/7
Email: info@mezan.org
www.mezan.org



Defence for Children International - Palestine Section

Sartawi Building
Sateh Marhaba
Ramallah
Tel: +972 (0) 2 2427530
Fax: +972 (0) 2 2427018
Email: ria@dcj-pal.org
www.dci-pal.org