



AL-MEZAN CENTER FOR HUMAN RIGHTS

**Factual and Legal briefing on IOF Attacks on Civilian Objects
during the June 2006 IOF incursion of Gaza**

Al Mezan Centre for Human Rights

25 June - July 13 2006

CONTENTS

1.	Al Mezan Centre for Human Rights	3
2.	Introduction	3
3.	Overview of Current Situation and Breaches of the Law	4
4.	Relevant Cases of Severe Attacks on Civilians	5
4.1.	Prior IOF attacks that were announced to have motivated the operation of Palestinian resistance groups on 25 June 2006.....	6
4.2.	Attacks conducted by IOF against civilians between 25 June - 13 July 2006	7
5.	Palestinian obligations with regards to the captured Israeli soldier:.....	11
6.	The four main groups of violations during reporting period	11
6.1.	Tightened siege on the Gaza Strip: humanitarian obligations and freedom of movement	11
6.2.	Air, land and naval attacks: disproportionate use of force	13
6.3.	Collective punishment.....	15
6.4.	Illegal detention of Palestinian legislators	17
7.	Conclusion: Gaza on the Brink of Crisis	18
8.	Urgent Intervention Required: Recommendations	19

1. Al Mezan Centre for Human Rights

Al Mezan Center for Human Rights is a Palestinian non-governmental non-partisan organization based in the Gaza Strip and aims to promote, protect and prevent violations of human rights in general, and economic, social and cultural (ESC) rights in particular, to provide effective aid to those victims of such violations, and to enhance the quality of life of the community in marginalized sectors of the Gaza Strip, with the ultimate goal of providing a secure and long-lasting foundation for the enjoyment of human rights in the occupied Palestinian territory (oPt). By means of thorough and consistent monitoring and documentation, maximum community participation and work towards higher levels of transparency and good governance, Al Mezan aims to provide a strong and reliable support mechanism for the work of local and international human rights organizations in the region, as well as that of academics, researchers and diplomatic missions. This report constitutes a part of this support to other groups who are working to protect the rights of Palestinians living in Gaza during these difficult times.

2. Introduction

A new crisis began on June 25 following the capture of an Israeli soldier in a military operation against an Israeli military post on Gaza border. Palestinian armed groups say their action came after a series of Israeli extra-judicial executions of leaders as well as the killing of numerous Palestinian civilians in Israeli raids over the previous weeks. They called for a prisoner swap, which was rejected by Israel, and the Israeli Occupation Forces (IOF) sent troops and heavy arms into Gaza. The military actions have disconnected the Strip from the outside world, destroyed much of the infrastructure and are threatening a severe humanitarian crisis for the 1.4 million-strong population within its borders. Measures being used by Israel are violating the main pillars of international humanitarian law, namely the principles of proportionality and distinction, and as a result large numbers of civilians, including many children, are being killed indiscriminately.

Due to the serious increase of human rights violations by Israel, namely the wide-scale killing of civilians, destruction of civilian property and infrastructure, methods of collective punishment, extra-judicial assassinations, and the rapidly deteriorating humanitarian and security situation in the Gaza Strip since Israeli began this latest incursion, Al Mezan is highly concerned about the wellbeing of Palestinians living in Gaza. The humanitarian decline is now affecting the most basic survival needs of the population, and an urgent and effective international intervention is imperative to ensure respect for human rights and the principles of international humanitarian law (IHL), to halt the impunity and brings the perpetrators of the war crimes being committed to justice. This is especially important in light of new threats by Israel that the incursion could continue for several months. Al Mezan stresses the need for withdrawal of forces, a halt to the attacks that are targeting civilians, and stresses that the perpetrators of such military commands are responsible for having committed war crimes in the Gaza Strip, according to international law.

The escalation aggravates an already existing humanitarian disaster, which began in March 2006 following the sudden withdrawal of international financial assistance to the Palestinian National Authority (PNA) and Israel's retention of Palestinian assets

which, together, account for 70% - 80% of the PNA budget. This has brought the Palestinian public service framework to the brink of paralysis, and according to the World Bank, OCHA and UNRWA, poverty and unemployment rates thereafter witnessed a serious increase, reaching 78%¹ and 40%² respectively in the Gaza Strip. Al Mezan had previously warned of the humanitarian consequences of this crisis, caused by the actions of Israel and the donor community, however it has only worsened.

This report is a factual and analytical legal report on the recent IOF incursion into Gaza which has severely provoked this economic and humanitarian downfall. It describes the principal military actions that have been conducted by the IOF according to Al Mezan field investigations, the consequences of these measures with regards to the civilian population, and the implications with respect to the legal obligations of Israel, Palestinian groups and the international community to protect Palestinians living in the Gaza Strip. In the context of attacks on civilian objects, which have been frequent and are continuing, the report looks at some extremely serious incidents that have occurred over the reporting period and provides information on the harsh IOF actions that have affected civilians over the past months. The report aims to provide tools for civil societies, governmental entities and all stakeholders for steps to be taken to halt the impunity and the ongoing violence, which is spiralling out of control as Israeli ground forces penetrate deeper into the Gaza Strip and inevitably into more densely populated areas, threatening further civilian evacuations and casualties.

3. Overview of Current Situation and Breaches of the Law

During the reporting period, IOF ground troops reoccupied many parts of the Gaza Strip, inciting the worst period of violation in the period since the Disengagement Plan was carried out in September 2005. Al Mezan reports show that the worst violence occurred on 12 July, on which 25 Palestinians were killed, and the period between 5 and 8 July, where on 6 July a total of 23 Palestinians in the Gaza Strip were killed in just 21 hours by the IOF. This brings the current toll of Palestinians killed to 91, since 25 June 2006. Of those, 23 were children. In addition, over 188 Palestinians have been injured, most of them civilians, including more than 45 women and children. Most casualties were incurred from missile and artillery fire on crowds. In addition, 95 homes have been damaged, including 15 which have been completely destroyed. Most of the destroyed and damaged houses are in the districts of northern Gaza and in Rafah. One cemetery and one mosque have also been partially destroyed. 265 dunums³ of land have thus far been levelled by the IOF. It appears that the IOF are using the imprisonment of the soldier as a pretext for their attack on the Gaza Strip, which is destroying its infrastructure and reoccupying parts of its land.

Missiles are causing serious effects in terms of damage and trauma. Air strikes targeted civilian facilities, including three bridges and Gaza's only power station which has had dire effects on the humanitarian situation. On 12 July, an air strike targeted a

¹ Background information for Vienna Conference 27-29 June 2006

² OCHA CAP May 2006: http://www.humanitarianinfo.org/opt/OCHA_Body-ASP_Files/Coordination_Sec/CAP06/OCHAoPt_CAP06_FS_En.pdf

³ One dunum equals 1,000 square meters.

house killing nine people from one family. The strike aimed at killing one wanted person, Mohammad Deif, according to a spokesperson of the IOF.

Borders have been closed, and due to the closure of Rafah crossing, patients have been unable to return home after medical treatment abroad; this has led to at least five deaths so far, including that of 70 year-old Fahmi Rabah Daoud, two women and a 1 year- old girl. There are 31 people reported with health problems stranded inside the terminal, and hundreds wait to be able to leave Gaza to receive treatment abroad⁴. Although on 10 July, in response to a petition filed at the Israeli Supreme Court, the State of Israel was given 48 hours to find a humanitarian solution for the patients at Rafah Crossing,⁵ actions have been insufficient and more patients have continued to lose their lives since.

In a further issue of humanitarian concern, over 1,000 people (190 families) have been evacuated from their homes in Al Shouka village and have been living in precarious conditions in an UNRWA school in Rafah.

The hermetic sealing of Gaza is causing severe problems for people wishing to travel and for the health sector especially. There are military closures of all crossing points around the Gaza Strip, which have prevented foodstuffs, medicine, fuel and humanitarian assistance from entering to the besieged population. Due to closures, Al Mezan confirms that the scarcity of fuel reserves will be depleted in two days, which seriously affects particularly the maintenance of hospital equipment and treatment of patients. Depletion of fuel will halt the pumping of water to households and the ability of local authorities to remove solid waste and sewage.

4. Relevant Cases of Severe Attacks on Civilians

Attacks by the IOF on civilians objects, whether intentional or not, are not new, and many incidents in the OPT, and notably in the Gaza Strip, highlight Israel's organized killing of Palestinian civilians and disregarding of the principles of non- discrimination, proportionality and war necessity. Since the beginning of the Al Aqsa Intifada, attacks on civilian objects have often accompanied attempts of extra-judicial executions carried out by the IOF against Palestinian activists and/or political leaders. In most cases, civilians were killed or injured and their property destroyed. Prior to the current crisis that began on 25 June 2006, the IOF had greatly been intensifying aerial attacks in attempts to kill Palestinian activists. Ten cases were carried out between 20 May and 14 July 2006, in which 49 Palestinians were killed, 21 of them children and six women. The vast majority of the victims were civilians inside their homes or cars. The IOF have killed 433 children since the beginning of the Intifada, some of them killed inside their classrooms and others at home, which emphasizes the IOF indifference towards civilians. In addition, there were cases where attacks were not aimed at activists but solely at civilians, such as the attack which killed the majority of the Ghalia family on June 9 at Beit Lahia beach (see details below).

⁴ According to the Palestinian Ministry of Health, 400 Palestinians are referred to be treated abroad monthly.

⁵ See Al Mezan Press release 10 July
http://www.mezan.org/site_en/press_room/press_detail.php?id=487

The following section provides brief descriptions on these cases, describing serious attacks on civilians prior to the eruption of the current crisis and recent attacks conducted during the reporting period as documented by Al Mezan:

4.1. Prior IOF attacks that were announced to have motivated the operation of Palestinian resistance groups on 25 June 2006

20/05/06: Missile hits car and kills 5, including 2 women and 1 child

At approximately 6:35 pm on May 20, Israeli jet fighters fired one missile on a car in Al Sina'a St. in Tel Al Hawa neighborhood in Gaza City, killing the driver Mohammad Al Dahdouh, 28, resident of Tel Al Hawa. Two women and a small child were in a passing taxi and were also killed: Hanan Amen, aged 54, Naema Amen, aged 25 and her 4 year-old child, Mohammad. Four others were injured, including two small children. This occurred simultaneously with intensified shelling on civilian areas and a tightened siege of the Gaza Strip, preventing humanitarian and urgent supplies from entering.

08/06/06: Extrajudicial assassination kills 4

At approximately 11:20pm on 8 June 2006, Israeli helicopter gun ships fired four missiles at a Popular Resistance Committees post located in southeastern Rafah, killing Jamal Ataya Abu Samhadana, 43, Leader of Popular Resistance Committees and three of the group's members: Nedal Musa, 21, Mohammad Atia, 23, and Ahmad Marjan, 28.

09/06/06: Civilian car is bombed, killing 3

On June 9th at approximately 3.25pm the IOF bombed a car in Tel Zaatar neighbourhood north-east of Jabalia Camp, killing Khaled Al Zaanin, 41, Basil Al Zaanin, 26, and Ahmad Al Zaanin, 22; it was reported that the car was returning from taking an injured person to hospital following the IOF shelling of Beit Hanoun at earlier that afternoon.

09/06/06: Beit Lahia beach massacre – 7 family members killed

In this IOF offensive, at approximately 4.40pm, three missiles killed 5 children of the Ghalia family and their parents, injuring 31 others including 14 children. The attack was a blatant targeting of a civilian family and caused carnage and the subsequent orphaning of a young girl who was the only survivor. An IOF military investigation acquitted the IOF of any blame in the incident, although independent Al Mezan, Human Rights Watch and media inquiries indicated that the IOF investigation was flawed and indicated IOF culpability in the attack.

13/06/06: Extrajudicial execution kills 11, including medics, and injures 42

At approximately 11.45am on June 13, the IOF killed 11 Palestinians and injured 42 others in an extra-judicial assassination attempt in Gaza city. In this case it appears that the attack on civilians was intentional. Jet fighters fired twice at a car; the first missile hit a car on Salah Ad-Din Street, killing three Palestinians: Hamouda Al wadiayya, 38, Ramez Al Mbayed, 27, Shawqi Al Siqeli, 42. Following the explosion, citizens and paramedics rushed to the location to help the wounded. Three minutes

later, a second missile was fired on the same spot, killing 7 Palestinians, including 4 paramedics, and injuring 42 civilians; 6 were in critical condition.

21/06/06: Missile fired at car kills 3 children and injures 8 more

At approximately 7.20pm on June 20 2006, Israeli fighter jets fired two missiles at a car on the highly populated Jabalia Nazla Street killing three children and injuring 15, also among them eight children. The victims are: Mohammed Rouqa, 5, Belal Al Hessi, 16, and a 6-year-old girl Samira Al Sharif.

21/06/06: 3 dead including baby of 1.5 years; 15 wounded including children

At approximately 6:10pm on June 21 2006, Israeli fighter jets fired two missiles, the IOF stating that they were targeting a car in Salah Al-Din Street in Khan Younis. However, one missile landed on empty land while the second hit the house of the Wahba family. As a result, Fatma Wahba, three months pregnant, and her brother Dr. Zakaria Ahmed were killed. Dr. Ahmad's daughter-in-law, also pregnant, miscarried her child, and two children Khaled Wahba, aged 1-and-a-half-years and a small girl Farah were injured; Khaled recently died of his wounds on 8 July. 15 others were wounded in the attack, including seven children.

4.2. Attacks conducted by IOF against civilians between 25 June - 13 July 2006

08/07/06: Mother and two children killed in Shijaiya attack on house

At approximately 7.55am on 8 July, the IOF dropped a missile at the house of the Hajjaj family on Shejaiya neighbourhood in eastern Gaza City, killing a mother and her two children; 5 others from the same family were injured. Although the IOF denied responsibility, Al Mezan's fieldworker and an UNRWA fieldworker happened to be in the neighbourhood at the time and witness the shelling.

09/07/06: Young passer-by killed in attack on car

At approximately 3:40pm on 9 July 2006, an Israeli jet fired a rocket at a car in Rafah, killing a civilian passer-by, Bilal Rabba, 18, and injuring ten others, only two of whom were in the targeted car.

12/07/06: Rockets fired at home kill 9 members of one family, including 7 children

At approximately 2:45am on 12 July 2006, Israeli fighter jets fired two heavy rockets at the two-story house of Dr. Nabil Abd Al Latif Abu Selmiya, totally destroying the house and killing Dr. Abu Selmiya and 8 members of his family. Following is a list of the victims:

1. Nabil Abd Al Latif Abu Selmiya, aged 46;
2. Salwa Abu Selmiya, aged 42;
3. Basma Nabil Abu Selmiya, aged 16;
4. Somaia Nabil Abu Selmiya, aged 14;
5. Huda Nabil Abu Selmiya, aged 12;
6. Iman Nabil Abu Selmiya Abu Selmiya, aged 11;
7. Yehia Nabil Abu Selmiya, aged 9;

8. Aya NAbil Abu Selmiya, aged 7;
9. Nasrallah Nabil Abu Selmiya, aged 4.

Another 37 civilians were reported injured. Contrary to other cases, IOF immediately claimed responsibility, stating they had been targeting Mohammed Deif, allegedly wanted by the IOF. Al Mezan fieldworkers reported that many of the victims were buried under debris, and hospital sources said victims were difficult to identify as the bodies arrived at the hospital in pieces. The house was located in the densely populated neighbourhood of Sheikh Radwan in Gaza City, and 10 other houses were damaged in the attack.

COMPARATIVE CASE: One- ton bomb dropped on Al Daraj neighbourhood in Gaza City in July 2002, killing 16 people including children.

While considering the scope of this extrajudicial execution attempt of 8 July 2006 which caused the massacre of a civilian family while they were sleeping in their homes, it is significant to draw for comparison a similar attack on civilians that was conducted in Al Daraj neighbourhood of Gaza City on 22 July 2002. In the Daraj attack, which occurred shortly before midnight, IOF dropped a one-ton bomb the neighbourhood whilst targeting Salah Shihadeh, aged 50, a senior member of Hamas and founder of its military wing Izz Ad-Din Al Qassam. Shehadeh was indeed killed, but 15 others were killed with him. 145 people were seriously injured and substantial damage to homes and property was sustained. This attack, which took place in the 21st month of the Al-Aqsa Intifada, was unprecedented in its reckless disregard for civilian life, as was reflected in the wide-spread international condemnation. Only 4 of the dead were in the targeted house, including Shihadeh's wife and daughter; the remaining being in neighbouring houses. 7 members of one family were killed. Furthermore, 73 houses, 11 shops and two workshops were destroyed in the attack, and six motor vehicles were also destroyed. At the time, Shihadeh did not constitute an imminent threat to any Israeli targets.

Al Mezan and other human rights groups asserted that these acts of Daraj and Sheikh Radwan constitute a crime against humanity in the context of Israel's assassination policy, the loss of civilian life, bombardments, the destruction of property and the use of F16s which ought not be used in densely populated areas. The Israeli forces, as a result of their then 34-year occupation of the West Bank and Gaza Strip, have intimate knowledge (as evinced by the accuracy of both bombings) of the high population density in the Gaza Strip, and indeed all areas of the areas under occupation. It is a well-known fact that the Gaza Strip is one of the most densely-populated areas in the world, and that the birth-rate is indeed the highest in the world.

Al Mezan strongly condemns the ongoing impunity in these attacks which severely target civilians. When efforts failed in the Israeli courts, the Daraj Case was taken abroad, and under universal jurisdiction was tried in a British court, where an arrest warrant was approved for IOF Major General Doron Almog. Almog had given command for the Daraj attack and a number of other severe attacks between 2001 and 2003, including the demolition of 59 homes in Rafah in January 2002. Almog was never prosecuted as he never returned to England following the charge, however the same incident has happened again now 4 years later with risks of similar impunity. It is worth stressing a relevant point here. The order to drop the bomb on Daraj neighbourhood was ordered by Dan Halutz, who was the Israeli Air Force Commander. Halutz has been promoted and is now acting as Chief of Staff at the Israeli Army. Once again, a criminal act takes place under his command. Should he

have faced trial for the first, it is believed the same crime might not have been occurred again.

Legal implications

International Humanitarian Law:

Israel is the only state in the world that challenges the applicability of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 (4th GC) on the OPT, which was reaffirmed by the International Court of Justice as recent as July 2005⁶. Israel does accept the applicability of “the Hague Regulations of 1907, which have become part of customary law”⁷, i.e. they are applicable in all circumstances of armed conflict, regardless of whether it an international or internal conflict. Rule 1 states:

Rule 1. The parties to the conflict must at all times distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must not be directed against civilians.

In addition, the obligations of High Contracting Parties to the 4th Geneva Conventions, with respect to searching for perpetrators of grave breaches of international law, are highlighted the 4th GC:

Article 146

The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, providing such High Contracting Party has made out a prima facie case.

The acts described above in both the Sheikh Radwan case of July 2006 and the Daraj case of July 2002 can be considered as grave breaches by the following provision of the same Convention:

Article 147

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: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile power, or wilfully depriving a protected person of the rights of fair and regular trial as prescribed in the

⁶ See Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, at http://www.icj-cij.org/icjwww/ipresscom/ipress2004/ipresscom2004-28_mwp_20040709.htm.

⁷ Ibid.

present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Moreover, Protocol I Additional to the Geneva Conventions codifies the principle of distinction, a customary rule of international humanitarian law which has been severely violated in both the Daraj and the Sheikh Radwan case, and states that:

Article 48: "In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operation only against military objectives.

Israel is not a signatory to the Rome Statute of the International Criminal Court (ICC). However, the Statute provides guidance as to specific war crimes and crimes against humanity. The list of such crimes includes:

Article 8 2 b (i) and (ii): Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities", and "Intentionally directing attacks against civilian objects"

International Human Rights Law:

In its Advisory Opinion, the International Court ruled that "certain human rights instruments (International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights and the United Nations Convention on the Rights of the Child) are applicable in the Occupied Palestinian Territory"⁸. Hence Israel, as a State Party to these instruments is in violation of its obligations under a variety of articles, *inter alia*:

Article 6 of ICCPR establishes the right to life, which is a non-derogable right under article 4(1) of the same Covenant even in time of emergency that threatens the life of the nation. It also states that "[T]his right shall be protected by law. No one shall be arbitrarily deprived of his life." **This de-legitimizes any Israeli alleged justifications behind its extrajudicial assassination attempts on wanted persons, attacks that have caused so many civilian casualties over past weeks and years.**

These cases also involve violation of the obligations of State of Israel under ICESCR and the CRC, both of which are discussed below and are highly relevant in the face of the increasing targeting of children and civilian property we have seen in Gaza.

Ironically, the IOF actions in both Daraj and Sheikh Radwan attacks have a high level of similarity and thus the legal provisions are also similar. Both were carried out in the predawn hours when people were sleeping, causing many civilian casualties. In both cases, the IOF knew that civilian casualties would be involved and still used heavy weaponry. In both cases, the acknowledged target was one person who was wanted by the IOF, but did not constitute an exceptional and actual or imminent threat to the security of the occupation forces, nor in either case was the wanted person engaged in hostilities at the time of the attack. Such measures can only be "directed to actual, clear, present, or imminent danger and may not be imposed merely because of an

⁸ See *ibid.*

apprehension of potential danger”⁹, which was not present in both cases. And in both cases most of the victims were children.

5. Palestinian obligations with regards to the captured Israeli soldier:

A 19 year- old Israeli soldier was captured in a military operation on June 25 and remains held in the Gaza Strip; Al Mezan and numerous other Israeli and Palestinian human rights organizations have urged those who have taken the soldier to adhere to the provisions of the Geneva Conventions and Hague Regulations for warfare until he is released. In all situations his life must be safeguarded and he must receive medical assistance and care; as a wounded member of armed forces, he must be protected under all circumstances and humanely treated. In effect, there have been ongoing confirmed reports that he is being treated for his wounds, is in good health and has been visited by a medical doctor. At least in one announcement by his captors, assurances as to not harming him and treating him ‘according to the principles of Islam which prohibits killing prisoners’ was issued.

Al Mezan reiterates its calls¹⁰ upon the soldier’s captors to respect the principles of humanitarian law. Non-state actors hold obligations equal to those of State actors in this respect. Although the homemade projectile rockets fired towards the Israeli population have as yet caused few casualties, they endanger the life of Israeli civilians and are prohibited under international humanitarian law. Al Mezan emphasises its call upon Palestinian resistance groups to halt the firing of these rockets without delay. The targeting of civilian population by either party to the conflict is contrary international law and human rights standards.

6. The four main groups of violations during reporting period

6.1. Tightened siege on the Gaza Strip: humanitarian obligations and freedom of movement

When the incident of 25 June occurred, Israel had already imposed a series of closures and controls on the Gaza Strip. These included restriction of the flow of individuals and goods through the passages between the Strip and Israel.

In particular, frequent and prolonged closures of Karni crossing, which represents the only passage through which can be provided food, fuel and medicine to the population, has caused a scarcity of all these goods.

⁹ See the Siracusa Principles, Article 54.

¹⁰ See joint press release ‘Israeli and Palestinian human rights organizations: Safeguard the life and health of the abducted soldier’, 27 June 2006, at http://www.btselem.org/english/Press_Releases/20060627.asp

In addition, on 25 June Israel sealed the Gaza Strip completely, closing Rafah Crossing and prohibiting a handful of 'humanitarian cases' from returning to the Gaza Strip after receiving medical abroad. As a result, approximately 4,500 Palestinians are currently trapped at the Egyptian side of the border, and a high number have not been able to leave the Strip to access vital medical treatment, education or work.

Along with other human rights organisations, this issue was brought to the Israeli Supreme Court; however the case was deemed 'not urgent' and, after an appeal was filed, the State of Israel has been given 48 hours to let the most urgent medical cases to access Gaza. Al Mezan insists however that all passengers should be granted the right to travel and the crossing should be opened and operated with regular opening hours for travellers.

Moreover, field reports from the areas where IOF tanks and personnel have been deployed in Rafah and northern Gaza since early days of the recent situation show that residents have been confined to their houses, and those who have tried to leave have been targets to Israeli soldiers. This is especially the case in Shouka Village in Rafah, where most residents have had to be evacuated and are being kept in a school. All areas near the northern borders of the Gaza Strip have remained under strict curfew for days at a time.

Consequences:

Relief consignments: As a result of the closures and tightened siege of the Gaza Strip, the civilian population of the Gaza Strip has been deprived of receiving food, fuel, medical supplies and equipment; these supplies are essential especially for the vulnerable communities such as residents of refugee camps, which are in need of the relief schemes and humanitarian assistance, and patients in Gaza hospitals. According to a statement by the United Nations Agencies on 8 July the restrictions on the humanitarian supply lines prevented over 230 containers of food through the Karni Crossing.

Hospitals: Hospitals are suffering severely from the disruption of food supplies, gas, fuel medicine and equipment. Especially critical is the shortage of fuel, a key requirement to power the generators that provide backup for the power cuts that are rife following Israel's destruction of power stations and lines. A severe crisis could occur if the power is cut entirely due to these closures, which is expected to occur at any time. According to WHO and the Palestinian Ministry of Health, some 50% of the health facilities have electricity generators but fear lack of fuel and disruption of their work as they are installed for back-up, not full-time work.

Municipal services: The continuation of vital services such as sewage systems, hygiene maintenance and water supplies, which affect the health of the local populations, is crucial, however, the siege imposed on the Gaza Strip constitutes a serious threat to the suspension of all the above-mentioned services, due to the disruption of fuel used for operating sewage and hygiene vehicles and pumping drinking water or sewage, a situation that can rapidly cause a humanitarian crisis.

Municipalities increasingly announce that they decrease the collection of solid waste and other sanitation services. The Coastal Municipality Water Utility has been relying on backup generators to operate some 130 water wells and 33 sewage pumping plants. Its services have been cut down by two-thirds by 8 July and, as the closure continues, its capacity is expected to decrease rapidly.

Legal implications

As Occupying Power, Israel has certain obligations under international law with respect to relief consignments. The following provisions in the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, of August 1949, clearly specify:

- *The Occupying Power has the duty of ensuring food and medical supplies of the population (Article 55)*
- *The Occupying Power shall facilitate relief schemes by all the means at its disposal (Article 59)*

Moreover, Israel is in violation of its obligation to respect the realisation of Palestinians' rights to, inter alia, food, water, health through these measures.

As parties to the Geneva Conventions, the international community has the obligation to ensure that Israel respects its legal obligations. In addition, the international community has a duty to assist Palestinians in this period of State-inflicted disaster they have been going through. This obligation emanates, inter alia, from the UN Charter, the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which reflect the widest consensus on human rights and international assistance.

6.2. Air, land and naval attacks: disproportionate use of force

Israel has used highly sophisticated weapons in its recent attacks on the Gaza Strip. This includes F-16 fighter jets, Apache helicopter gun ships, Mercava tanks and heavy artillery units. These weapons are known for being capable of attaining high degrees of target precision. Nevertheless, most attacks have hit civilian objects, such as the only power station in the Gaza Strip which provided over half of the electricity used by the population, several electricity transformers in almost all districts, three bridges connecting the northern and southern parts of the Strip, the offices of the Prime Minister and Minister of Interior, the Islamic University in Gaza, a school in Toffah neighbourhood of Gaza City and numerous other civilian targets. The IOF have fired an average of 400 artillery shells on northern Gaza per day, many of which have hit civilian areas. As of 11 July, IOF missiles and shells hit civilian targets in Beit Hanoun, Beit Lahia, Gaza city, Khan Younis and Rafah killing and wounding dozens of civilians¹¹.

Moreover, fighter jets repeatedly and deliberately broke the sound barrier, causing an average of 25 sonic booms daily over all the districts of the Gaza Strip. Almost all Palestinian casualties have been caused by guided missiles and heavy shells dropped on Gaza. Civilians, especially children, suffer severe trauma and shock from the frequent bombardment and sonic booms. Israeli military sources stated their intention to continue these measures and increase the intensity of these attacks which are retaliatory by nature; as their timing and the statements made by Israeli Government officials clearly reflect.

It is worth noting here that all of Israel's recent actions took place following, and not during, a military attack on a military post on the border of Gaza and the capture of one soldier. Retaliation is clearly prohibited under international humanitarian law and customary law, and cannot be justified on self-defence grounds.

Consequences:

¹¹ For details on these attacks, please consult Al Mezan Centre for Human Right' website at www.mezan.org .

Disconnected areas: As a whole, the Gaza Strip has been disconnected from the outside world. Due to the incessant shelling of vital infrastructure such as roads and bridges, the population is being prevented from moving between districts of Gaza; specifically the southern districts and middle camps have been disconnected from the northern districts and in particular from Gaza City where the most important and well-equipped hospital is located. Access to health care, work and remedy institutions has hence been restricted. As mentioned above, areas under IOF incursion in the north and south of Gaza have been isolated and rely on ICRC humanitarian assistance.

Civilian suffering: Due to the constant shelling, excessive due to the non-proportionality of the military advantage gained with respect to the threat to civilian life and property, the civilian population of Gaza is severely suffering the consequences. The suffering is caused by restricted movement, lack of water and power supplies, fear and trauma, and loss of life.

Vital institutions: The targeting of civilian objects is prohibited under international law, unless there is an absolute and imminent military necessity, which is not the case since it takes place after the hostilities of 25th June. The measures have undermined the ability of the PNA to deliver services for the population and to put into effect the rule of law. Reports from hospitals indicate that there is a serious drop of their capacity to deliver services, and services have now been limited to emergency and life-saving treatment only, due to the lack of equipment and supplies. The targeting of educational institutions similarly destroys the educational framework within the Gaza Strip and violates the right to education for Gaza students, including children. Civilians also suffer from the above-mentioned destruction of homes and cultivated land.

Legal implications

As Occupying Power, Israel has certain obligations under international law with respect to protection of civilians and their property. The following provisions in the Fourth Geneva Convention (Relative to the Protection of Civilian Persons in Time of War) clearly specify:

- *Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited (Article 53)*
- *The Occupying Power, shall, with the cooperation of national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children (Article 50)*
- *The attack or bombardment of towns, villages, habitations or buildings which are not defended, is prohibited (Hague Regulations Convention II Article 25)*

International Human Rights norms:

In the absence of a Palestinian State and under effective Israeli control of OPT, Israel has certain obligations vis-à-vis the population under its jurisdiction. The fact that Israel occupies Palestinian territories does not negate these obligations.

In General, Israel has an obligation to respect, protect and, if needed, fulfil a set of human rights, especially those protected by the ICESCR, with a view to progressively realise the rights protected by the Covenant. The IOF conduct, which was ordered by political leadership, fails to respect Palestinians' arrangements to provide basic services covered by their rights to an adequate standard of living, adequate housing, to food, water, the most attainable standards of physical and mental health and to

work. This is solidified by the destruction of vital facilities necessary to the respect of the minimum core content of these rights, such as electricity, water and sanitation facilities. In fact, the Israeli acts caused a serious regression of the efforts towards the realisation of these rights, which is contrary to the letter and soul of the ICESCR. It also violates its obligation to take measures to protect civilians' enjoyment of these rights, not to mention its abstention from ensuring their fulfilment.

In particular, the demolition of homes, damage to power, water and sanitation facilities incur serious implications on the enjoyment of the right to adequate housing (ICESCR Art. 11). The damage incurred on the health system is also contrary to the due respect to the right to the highest attainable standards of health (ICESCR Art. 12).

Moreover, Israel is in violation of its obligations under CRC to “protect the child from all forms of physical or mental violence, injury or abuse” (Art. 19.1). In addition, it is in violation of its obligations as to ensuring “the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health” and “to ensure that no child is deprived of his or her right of access to such health care services (art. 24.1).

It is also worth noting that the international community is in violation of an obligation to abstain from engaging in international relations in such a way that incurs violations on ICCPR and other human rights instruments. This is particularly reflected in the humanitarian sanctions and immediate cut of funding following the January 2006 elections. According to the UN Rapporteur on the right to health, international community ‘turned-off their life saving assistance without notice’ threatening ‘the most vulnerable’ and acted ‘in breach of their responsibility to provide international health assistance’¹². Moreover, the state of inaction in regard to the crisis reflects behaviour that is at odds with the international community’s responsibilities to ensure international peace and security (UN Charter), and those relating to respect and ensuring respect of the IHL (Common Article 1 of Geneva Conventions).

6.3. Collective punishment

The nature of the Israeli action is both arbitrary and retaliatory as it comes after and not during attacks on its posts. In addition, the scope of the measures employed by IOF make them mount to collective punishment of the entire population under occupation. The above-mentioned restrictions on movement and deprivation of life essentials are only one example. The use of lethal, disproportionate and unnecessary force and other measures are yet another.

Consequences

Sonic booms: The sonic booms have shown to have extremely severe psychological effects on the populations. The numerous effects include post-traumatic stress disorder, nervousness, and exhaustion, and are most severe among children. Physical damage to property also occurs with the shattering of windows. Israeli Prime Minister Olmert recently said: “thousands of residents in southern Israel live in fear and discomfort, so I gave instructions that nobody will sleep at night in the meantime in Gaza”,¹³ which implies that not only are the sonic booms an actual accepted Israeli

¹² Agence France-Presse English Wire Date: June 22, 2006

¹³ http://www.btselem.org/english/Special/20060703_Supersonic_booms.asp

policy, but they are clearly aimed at harming the entire civilian population as a way of placing pressure on Palestinian militant groups and government, which constitutes collective punishment and is in clear and severe breach of international law. A case was filed to the Israeli High Court to prevent IOF from this practice, but has been repeatedly postponed since November 2005.

Missiles and artillery: (See section 4.2. Air, land and naval attacks) these measures indicate forms of collective punishment against the civilian population of the Gaza Strip for the actions of just a few militants, which is disproportionate action and violates the principles of proportionality under IHL as well as the principle of distinction between civilian and military targets.

Closures: See section 4.1. Tightened siege on the Gaza Strip; the hermetic sealing of the Gaza Strip is a form of collective punishment.

Palestinian prisoners: Palestinian prisoners in Israeli prisons have been directly targeted and denied fundamental prisoners' rights since the beginning of the recent Israeli military operations. New measures against their rights inside prisons as well as familial and lawyer visitation have been enacted since the eruption of the new escalation.

Legal implications

These various actions violate a number of provisions under international law, most significantly the following from the Fourth Geneva Convention (Relative to the Protection of Civilian Persons in Time of War)

- *Collective penalties and likewise all measures of intimidation or of terrorism are prohibited... Reprisals against protected persons and their property are prohibited (Article 33)*
- *In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives (Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), June 8, 1977, Article 48)*

Although Israel has not signed this Protocol, it codifies the rule of International Customary Law of distinction, which prohibits indiscriminate warfare.

- Protection of objects indispensable to the survival of the civilian population
 1. Starvation of civilians as a method of warfare is prohibited.
 2. It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as food-stuffs, agricultural areas for the production of food-stuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive (Art 54) of the same Protocol).

Collective punishment also constitutes a severe breach of the principle of distinction, one of the fundamental pillars of international humanitarian law which states that a distinction must be made at all times between civilians and combatants, and at no time should a civilian object or person be targeted. This is particularly significant given the availability for Israel of military equipment that is known for its precision.

Moreover, in Al Mezan's view, the measures employed by Israel, their scope, intensity, timing and scale suggest that they are not necessary, and cannot be justified on grounds of self-defence or military necessity. It is impossible to establish how the destruction of civilian facilities could be necessary for the current military operations in Gaza, or for ensuring the release of an Israeli soldier.

6.4. Illegal detention of Palestinian legislators

Following the taking of the Israeli soldier, on 30 June 2006 the Israeli Ministry of Interior revoked the identity cards and permanent residency of a number of residents of East Jerusalem who are legislators within the Palestinian National Authority. Palestinian ministers and Legislative Council members were informed that if they did not resign their positions they would not be allowed re-entry into Jerusalem, where they lived, and were detained on 30 June following the capture of the soldier on grounds of suspicion of membership in a terrorist organization. The order was given that members of Hamas could have their residency revoked following a suicide bombing in Tel Aviv, showing that the issue is a political one and not a security one. They remain in custody. The Israeli government requested advice of the Israeli Attorney General as to its ability to use them as bargaining chips in the negotiations to free the soldier¹⁴. Although this proposal was not approved, it suggests that Israel arrested these officials without acceptable legal basis, and with an intention that amounts to hostage taking.

Consequences

Following the revocation of their residency status, the four officials, elected as representatives for Jerusalem, have been forbidden re-entry into the city and have thus been forcibly expelled from their homes. These are among a total of 47 legislators, ministers and mayors who have since been detained by Israel without charges.

Legal implications

East Jerusalem is by status occupied territory like the West Bank and Gaza Strip¹⁵, and therefore its Palestinian residents are protected persons under the Fourth Geneva Convention, which prohibits the Occupying Power from forcibly transferring civilians from their homes (article 49 below) unless in exceptional circumstances, where 'imperative reasons of security' allow the Occupying Power to assign the residence of a person (article 78 below). However, since the decision to revoke permanent residencies was made in protest following an attack, even if Israel argues that it is not a forcible transfer but in fact an 'assigned residence', it can be shown that it is on political grounds and not security grounds, since these persons have not been faced with any charges or indicted to have perpetrated any offences on Israeli security, and is therefore illegal. The following provisions in the Fourth Geneva Convention show this legal argument and Israel's respective obligation:

¹⁴ See 'AG refuses to ok use of Hamas officials as 'bargaining chips' at <http://www.haaretz.com/hasen/spages/732528.html>

¹⁵ See Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory at <http://www.icrc.org/ihl.nsf/7c4d08d9b287a42141256739003e636b/f6c8b9fee14a77fdc125641e0052b079>, in which the Court reaffirmed the status of the OPT, including East Jerusalem, as occupied territories.

- *Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive (Article 49)*
- *If the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment (Article 78)*

International Human Rights Law also prohibits imposition of such restrictions on movement, and the breach of everyone's freedom to leave one's country and return to it (see Article 14 in the UDHR), or to be arbitrarily deprived from the right to enter own country (see Article 12.4 in ICCPR).

Ensuring respect to international human rights obligations are erga omnes in nature; i.e. obligations on the community of states as a whole. The international community, hence, has a general obligation to intervene effectively and utilise the means at its disposal to ensure respect and protection of Palestinians human rights. The United Nations also has a responsibility towards the current situation, which has serious repercussions on the peace and security of the region.

7. Conclusion: Gaza on the Brink of Crisis

Al Mezan Centre for Human Rights is gravely concerned about the rapid deterioration of the human rights and humanitarian situations in the Gaza Strip and the negative physical damage to civilian property, loss of civilian life and psychological effects caused to Palestinians in the Gaza Strip, especially women, children and patients. The measures employed by Israel have a wide scale implications on the life and wellbeing of the entire Gaza population, and can have prolonged impacts if not brought to a halt immediately.

It is important that the Palestinian groups holding the Israeli soldier treat him humanely. It is also essential that Palestinian armed groups halt the firing of projectiles on Israeli towns. Al Mezan nonetheless wishes to reiterate the Palestinians' right to pursue their self-determination and to resist the foreign occupation in such a way that ensures respect of international law¹⁶.

It is, however absolutely essential that Israel's disproportionate military actions conducted as a response be curbed in order to prevent further civilian casualties. The impunity of the actions by IOF commanders must also be halted immediately, and in pursuance of this end, Al Mezan calls for further search, pursuit and prosecution of Israelis who have committed war crimes or ordered them to be committed.

High unemployment and poverty rates, which had already been extremely high prior to the current crisis, are worsened by the constant closure of Karni crossing. During times of extreme duress and besiegement such as this recent period, the high poverty and unemployment, as well as the damaging military actions and acts of collective punishment targeting the entire population, are destroying not only property but also

¹⁶ In identifying these rights, Al Mezan bends on the United Nations' Charter (art. 1.2), the UDHR Preamble Para. 3, Art. 2 common to the two International Covenants as well as UNGA resolutions and ICJ rulings, which affirm people's right to self-determination and to pursue its realisation.

the morale of Gaza residents which may in fact exacerbate the long- run security threat to Israel.

According to Al Mezan, a real health and humanitarian crisis is emerging in the Gaza Strip, due to the dense Gaza population that will be severely harmed by the wide-scale military operations that have now further advanced in northern and southern Gaza. Medical supplies are in great shortage and equipment is constantly prevented from operating during this IOF offensive, thus denying treatment for the wounded and sick. Reserves of fuel for hospital generators are expected to last no longer than a few days at a time. Small quantities of fuel are sporadically allowed into the Strip but are insufficient to meet daily requirements. Further, untreated sewage has already been spilling into the sea and risks running over into the streets of Gaza, Deir Al Balah and Rafah¹⁷. In addition, vulnerable communities such as refugees are highly dependent on aid that is being prevented from entering the Gaza Strip. Israeli military actions are the cause for the severe deterioration which has shattered the already fragile stability and reduce possibilities for a return to finding a just solution to the conflict.

Al Mezan Centre for Human Rights condemns these intensified IOF measures, which amount to grave breaches of the Geneva Conventions and, thus, to crimes of war and against humanity, and confirms that the targeting of indispensable and civil facilities constitutes a severe violation of Israel's legal commitments under international humanitarian law, which it has disregarded. Clear violations have also been committed of international Human Rights treaties, particularly the International Covenant on Civil and Political Rights, the International Convention of Economic, Social and Cultural Rights and the Convention on the Rights of the Child. The Centre regrets the high numbers of Palestinians killed over the past days, and condemns the disproportionate use of force by the IOF in the Gaza Strip. The IOF are completely ignoring the principles of proportionality, distinction and military necessity, when attacking Palestinian resistance members who are in civilian areas and not directly engaged in the hostilities when they are targeted.

8. Urgent Intervention Required: Recommendations

Al Mezan Centre for Human Rights – Gaza (Al Mezan) requests immediate international intervention in the Gaza Strip.

Al Mezan Centre for Human Rights hereby stresses that the international community, most notably the High Contracting Parties to the Geneva Conventions and the United Nations, has legal and ethical obligations to intervene in order to put a halt to Israeli war crimes and provide protection to Palestinian civilians. Such an intervention is essential to prevent a real humanitarian crisis in the Gaza Strip should the IOF uphold the siege and continue to target civilians, civilian property and indispensable facilities.

The international community is called upon to:

¹⁷ For greater detail on the humanitarian cost of the current Israeli operations, please consult Al Mezan's report at http://www.mezan.org/site_ar/resource_center/mezan_publications/detail.php?id=141 (available in Arabic only)

- End the humanitarian sanctions imposed on the Palestinian people in the OPT. Contrary to economic sanctions, these measures affect the very essential sources of survival and are oriented against an already exhausted population under occupation;
- Use all means at its disposal to respect and ensure respect in OPT to the 4th GC;
- Dispatch an independent committee of inquiry or fact-finding commission to detect facts on the ground and take the necessary measures to ensure that such conduct and disregard of international law and human rights standards end, and will not occur again.

Al Mezan Centre for Human Rights urges all governments, international and national human rights organisations to urgently take action to bring the ongoing Israeli violations to a halt.

Please see Al Mezan's Urgent Action Appeal which is available on its website which provides further suggested channels of action and points of redress:

http://www.mezan.org/site_en/resource_center/mezan_publications/detail.php?id=145

Al Mezan Centre for Human Rights
www.mezan.org
info@mezan.org
Tel: (972) 8 282 04 42