

## Justice denied – Three Years after the “Hannibal Directive” in Rafah, Gaza

1 August 2017



1 August 2017 marks three years since “Black Friday”, a key event at the beginning of the Israeli military’s invocation of the so-called “Hannibal Directive” in Rafah, southern Gaza Strip. The go-ahead on the Directive brought four days of intensive, continuous military attacks on the city and severe restrictions on movement that cut it off from the rest of the Gaza Strip. The military assault resulted in the killing of 255 Palestinians, including 85 children, and the injury to hundreds more during these four days alone. The morning of Black Friday coincided with the supposed start of a 72-hour humanitarian cease-fire, agreed upon yet not implemented three weeks into the 51-day military assault on Gaza that Israel termed “Operation Protective Edge”.

The Hannibal Directive, which is ostensibly used to thwart the abduction of a captured Israeli soldier, was invoked in Rafah following the reported capture of Israeli 2nd Lt. Hadar Goldin. For the following four days, Rafah, a densely populated city of around 153,000 people (2014), was subjected to heavy artillery, tank and aerial attacks. Three years later, no Israeli military or government leaders have been held to account for the killings, destruction, and invocation of the Directive.

One of the tragic events that occurred during those days was the 3 August 2014 missile strike on UNRWA School A in Rafah, which was serving as a shelter for over 3,000 internally displaced persons (IDP). Israel’s refusal to investigate this event, highlights a system aimed at delivering impunity rather than due process. At approximately 10:36 am, a drone targeted a motorcycle carrying a young man and a child, while they were driving in the vicinity of the UNRWA school. The two were killed along with 12 others standing in front of the entrance gate. Eight children were among the fatalities and 25 people were injured. The Israeli military later claimed that those on the motorcycle were suspected militants, however, Al Mezan’s investigations in the months after the attack showed that all 14 people killed were civilians.

With reasonable cause to believe the attack violated international humanitarian law, human rights law and criminal law, Al Mezan and Adalah—The Legal Center for Arab Minority Rights in Israel filed a complaint on 31 August 2014 to the Israeli authorities, demanding a serious, independent investigation and the prosecution of those responsible.<sup>1</sup> Two years later, on 24 August 2016, the authorities closed the file without a criminal investigation,<sup>2</sup> despite the military’s clear violation of the principles of distinction and proportionality by selecting the area of the IDP shelter as a target.

<sup>1</sup> Joint Press Release: “Israeli military refuses to investigate attack near UNRWA School in Rafah, Gaza that killed 14 civilians” published on 31.08.2016. Available here: <http://mezan.org/en/post/21523>

<sup>2</sup> Decisions of the Military Advocate General, Update 5. Available here: <http://www.law.idf.il/163-7596-en/Patzar.aspx>

The UN Commission of Inquiry also found that imprecise weapons were used, concluding that the attack is “highly likely to constitute an indiscriminate attack which, depending on the circumstances, may qualify as a direct attack against civilians, and may therefore amount to a war crime.”<sup>3</sup> The organizations appealed the closure of the file and argued that the principles of distinction and proportionality had been violated in this case. They also contended that the MAG failed to discuss command responsibility, although the decision was made at high levels to in fact use the particular very powerful munitions in the area, although the MAG acknowledged to UNRWA—multiple times—that it was aware that the school was sheltering a high number of civilians.<sup>4</sup>

The MAG’s recommendation to launch an investigatory panel, with the reported aim of countering domestic and international criticism over the “Black Friday” events in Rafah, was met with opposition by the Israeli Prime Minister and other officials<sup>5</sup> and has seemingly been cancelled. Three years after the attacks, an independent, robust and credible investigation, which complies with the relevant international standards, is still sorely awaited.

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<sup>3</sup> Report of the detailed findings of the Commission of Inquiry on the 2014 Gaza Conflict A/HRC/29/CRP.4, para. 446. Available here:

<http://www.ohchr.org/EN/HRBodies/HRC/CoIGazaConflict/Pages/ReportCoIGaza.aspx>

<sup>4</sup> Op cit footnote 1

<sup>5</sup> Haaretz: “The IDF Wanted to Investigate a Key Moment in the Gaza War. Netanyahu Said No”. Available here: <http://www.haaretz.com/israel-news/1.800845>