



HOUSING AND LAND RIGHTS NETWORK

Habitat International Coalition

Urgent Action Appeal: **Israel applies collective punishment and excessive force,** **threatening the lives of Gaza's population**

Case ISR-FE 170606

The Housing and Land Rights Network of Habitat International Coalition (HIC-HLRN, in cooperation with The Applied Research Institute—Jerusalem (ARIJ) and Al Mezan Center for Human Rights, both members of HLRN, request your **URGENT** intervention in the following situation in Palestine.

Brief description

On the 25 June 2006, Palestinian militants conducted a raid at the crossing point and military outpost of Karem Shalom, resulting in Palestinian militants' capture of an Israeli soldier. The raid followed escalating attacks by Israeli forces, including the shelling of a North Gaza beach earlier in the month on 9 June, which killed seven members of a Palestinian family.

The soldier's captors are demanding the release of all Palestinian prisoners, especially women and children, being held in Israeli jails in exchange for information on the soldier's whereabouts. The State of Israel's response was categorically to reject any notion of dialogue. Instead, its decision was to invade Gaza and arrest ministers and Legislative Council Members, in order to apply pressure on the captured legislators to release the soldier.

On 28 June, the State of Israel launched a massive military offensive against the people of Gaza through a campaign of collective punishment against the nearly 1.4 million inhabitants. The Israeli missiles are attacking civilian and public property, including vital roads, bridges and other infrastructure. The assaults have destroyed Gaza's only power plant supplying the area with most of its household electricity, government buildings, three major bridges, and several educational institutions, including the Islamic University of Gaza. Besieging Israeli forces have closed all crossings into Gaza (except instances of the Karni Crossing opening for a few hours), depriving access to vital aid and humanitarian workers, and barring observers and journalists. The repeated use of predawn sonic booms causes general fear among the civilian population, especially children. The destruction of civilian infrastructure has continued despite international condemnations. Israeli forces have caused the arrest and illegal transfer of 27 elected Palestinian

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legislators, including eight cabinet ministers, being detained without charge. Others have gone into hiding. By targeting civic personnel and institutions, Israeli forces are eliminating the principal assets required to maintain local stability and order.

Although the entire Gaza Strip is subject to air strikes and shelling, the Israeli army is intensifying its offensive in following areas:

- In northern Gaza Strip, where Israeli forces have invaded and reoccupied the ex-Israeli settlements and moved to a depth of five kilometres, expanding the “security zone” that the military has created after they pulled out of Gaza in December 2005.
- In Beit Hanoun (northeast) and Beit Lahiya (northwest) in the northern Gaza Strip, where occupation forces are carrying out intensive bombardment of residential areas
- Two day ago, on 15 July 2006, Israeli forces also entered the middle-Gaza area and took control of the main street (same location where Abu Houli Checkpoint was prior to the disengagement)

Since the start of the siege, at least 91 Palestinians have died, including 23 children and 188 have been injured.¹ Gaza currently endures a total suspension of electricity after the Israeli army bombed the only electricity station in the area. Petrol resources have become depleted, causing many of the water wells to stop running, depriving the Sheikh Radhwan neighbourhood, for example.² In addition, Israeli authorities have prohibited the entry of basic aid, including food and medical supplies. The severe shortage of basic necessities and the lack of water place many Palestinians at serious risk of starvation. Israel has also shut down the main civilian crossings into Gaza, including Rafah, thus stranding 4,700 residents on the Egyptian side of Gaza’s border. At least four people have died at the crossing so far, including one infant, two women and one elderly man. Most of them were returning after receiving medical treatment abroad when the crossing closed and have since been waiting there with some 4,500 Palestinians.

International authorities warn of impending disaster as a result of Israel’s continuing violence. Several UN agencies, including UNRWA, WHO, WFP, UNICEF and OCHA, have warned that Gaza is on the verge of a public health disaster. All persistently emphasize that shortages in water supplies, the prevention of basic medical supplies from entering Gaza, and the loss of electrical capacity to preserve existing depleting supplies of food places the Palestinian population at both starvation and health risks, including ensuing disease from the piling of sewage and solid waste due to municipalities rendered unable to maintain sanitation services. UN Secretary-General Kofi Annan bluntly has declared the need for Israel to differentiate between civilians and combatants. Moreover, Mr. Annan has urged Israel to lift restrictions on movements of basic food stuffs and to restore power to the region’s only power station, which supplies all local hospitals, water and sanitation plants, and food production.³

Background information

Israel has long pursued discriminatory policies against the indigenous Palestinian population to the detriment of human rights to life and livelihood. The principal measures have included the dispossession and destruction and dispossession of Palestinians’ homes, villages and lands. The State of Israel extended this practice

in the West Bank, East Jerusalem and the Gaza Strip with its 1967 military occupation, applying also its domestic laws and parastatal institutions (e.g., World Zionist Organization/Jewish Agency and Jewish National Fund) further to dispossess and colonize the Palestinian habitat there. Although Israel's related violence and destruction have become part of the daily lives of Palestinians, especially in the occupied Palestinian territory, the particularly cruelty of this most-recent round now threatens the subsistence of over 1.4 million Gazans.

The demands of the Israeli soldier's captors reflect a common sentiment among the Palestinian population, subject to Israel's continued arbitrary arrests, dispossession and other discriminatory policies. Nearly 10,000 Palestinians are currently being held in Israeli jails, 4,000 of which are currently held in detentions camps, including 380 children (all under the age of 17), according to *Defense for Children International (Palestine branch)*.⁴ Many are held indefinitely as administrative detainees, thus denied the right to a trial or to an attorney. Palestinian children prisoners are detained with adult prisoners in squalid conditions and with little or no access to education.⁵ Arrests often are conducted at checkpoints or at the child's residence late at night, Israeli captors' explanations of detainee's charges or whereabouts after arrests are often vague and incomplete. They interrogate Palestinian children without the presence of defence lawyers and under extreme physical and psychological stress.

Palestinian women prisoners are treated in a manner equally as inhumane as children. According to the *Women's Centre for Legal Aid and Counselling*, approximately 129 Palestinian women remain in Israeli prisons; 11 women are being administratively detained (without charge or trial); 74 are being held pending trial; and 44 have been sentenced. Twelve of these women prisoners are under the age of 18. Palestinian women prisoners and detainees, in particular, are habitually sexually harassed and threatened with rape in order to induce them to divulge information or produce false confessions.⁶

Information on the rights holders/victims

The approximately 1.4 million residents of Gaza are living under a continuous military offensive. Approximately 750,000 civilians consequently have been deprived access to basic services, including electricity and running water (due to the electricity cut). In addition, the resulting inadequate maintenance of the sewage system, including for lack of electricity, exacerbates the humanitarian crisis as a further hazard to public health.

The residents living in southeastern part of the Strip (where the Israeli soldier's abduction took place), as well as those in northern Gaza, particularly Beit Lahiya and Beit Hanun, suffer the most from the Israeli shelling. The people in Beit Hanun have received pamphlets dropped from Israeli aircraft, ordering the residents to vacate their homes as the Israeli Army has designated the residential area as a "security buffer zone."

In addition, Israeli military bulldozers have started levelling tracts of land owned by the residents of al-Farahin district, east of Khan Younis. Eyewitnesses report three military bulldozers backed with tanks now razing farmlands planted with olive trees.

The 1.4 million Palestinians living in the 360 km² Gaza Strip, along the south Mediterranean Coast of Palestine, form one of the world mostly densely

concentrated populations. Roughly two-thirds of the inhabitants are refugees from population transfers that Israel conducted in the late 1940s and in 1967. In addition to the rights borne by Gaza's general population, the refugees there also hold rights of all Palestinian refugees to return, restitution, rehabilitation and compensation as legally guaranteed remedies to the crimes committed against them, forcing their exile.

Duty Holders

The State of Israel, its elected government and its military forces bear the duty to uphold norms of applicable international humanitarian and human rights law as minimum guidelines for their treatment of the Palestinian civilian population, including refugees. The State has assumed these duties, including by way of its treaty ratifications and affirmations mentioned below. By extension, compliance with these rules also is required of private parties to avoid contributing to the situation that leads to certain violations.

Critique of the Official Reasons

While Prime Minister Olmert has told ministers in Jerusalem that this latest siege was not part of a reoccupation plan, his Deputy Prime Minister Shimon Peres told CNN that "We are trying to topple down the policies of this so-called government, which are policies of terror."⁷ In what admittedly is a wider plan to destroy the elected Hamas government, the Israeli government has abducted eight Hamas Cabinet ministers and some 20 other members of the Palestinian Legislative Council, currently in detention where they face charges of what Israel calls "terror provocation," placing them in risk of trial and imprisonment.

Israel's obstruction of civilian functions and its collective punishments are strictly prohibited under international law. Despite international condemnations, Israeli officials have denied that their use of force is disproportionate. PM Ehud Olmert has said that: "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",⁸ which implies that not only are the sonic booms an actual accepted Israeli policy, but they are clearly aimed at harming the entire civilian population as a way of placing pressure on Palestinian militant groups and government, an action which constitutes collective punishment and is in clear and severe breach of international law.

Israel has long refused to apply binding international human rights and humanitarian norms and, most recently, has refused to consider the discriminatory treatment of those Palestinians to be held in its institutions. Moreover, Israel's justification for the Gaza invasion is fundamentally flawed as it could only further endanger the abducted soldier's safety. Israel's refusal to hand over illegally held Palestinian prisoners also has left the crisis in a deadlock, which the State uses further as a pretext to use military force. All measures of collective punishment, wanton destruction of private and public property, detention of civil officials, arbitrary arrests and attacks on civilian persons are violations of minimum humanitarian norms and cannot be justified legally or strategically as measures to secure the release of its soldier in the occupation of the Gaza Strip.

Legal Aspects

International Human Rights and Humanitarian Treaty Violations

According to Israeli Military Order 1500, children in the oPt aged 12 and under can be tried in military courts, and a child over 16 years of age is considered an adult. This contravenes the *Convention on the Rights of the Child* (CRC), which Israel ratified on 2 November 1991, and which defines a child as anyone under the age of 18 (Article 1, CRC). Israel applies the internationally recognized definition of a child only to its own citizens, but applies no such protective standard to Palestinian minors in the oPt. In practice, Palestinian children may be charged and sentenced in military courts beginning at the age of 12. Between the ages of 12 and 14, Palestinian children can be sentenced for offences for a period of up to six months. For example, a child who is charged for throwing a stone can be sentenced to six months imprisonment. After the age of 14, Palestinian children are tried as adults. Israeli forces often detain and imprison Palestinian children in cells with adults and criminal prisoners in violation of international law prohibitions.⁹

Israel's recent actions in Gaza represent a violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949), which the international community has frequently reaffirmed as *de jure* applicable and which prohibits destruction of civilian properties, collective punishment and targeting civilians (Articles 33, 53, 49 and 47). The destruction and appropriation of property not justified by military necessity is also considered a grave breach under Article 147. Moreover, Israel's ongoing policy of "targeted assassinations" also contravenes the Fourth Geneva (Civilians) Convention by denying suspects legal entitlements to due process as prescribed under international law.

While Israel has disputed the repeated international affirmation of the Fourth Geneva Convention's *de jure* application, the State has accepted that The Hague Regulations (1907) form part of Israel's domestic law.¹⁰ Another standard of international customary law, the Universal Declaration of Human Rights also affirms in all circumstances that "Everyone has the right to own property alone as well as in association with others..." and that "No one shall be arbitrarily deprived of his [or her] property." Further, the arbitrary deprivation of life contradicts Israel's treaty obligation under the International Covenant on Civil and Political Rights of protecting human life, even in time of public emergency.

These well-reported Israeli military practices also violate the Palestinian inhabitants' human right to adequate housing; i.e., the right of every woman, man and child to gain and sustain a secure place and community in which to live with peace and dignity. Targeted house demolitions represent a grave breach of humanitarian law, and the destruction and resulting forced evictions constitute a gross violation of human rights. Moreover, attacks on infrastructure especially violate housing rights provisions regulating accessibility; habitability; access to public goods and services, including drinking water, sanitation and electricity; and those destructive acts cannot be claimed to meet requirements of military necessity. It is worth noting that the Israeli Occupation Forces (IOF) generally do not inform the inhabitants in advance of individual house demolitions, do not allow inhabitants a chance to salvage their possessions or furniture, and the IOF do not provide required alternative housing or compensation to victims. As such, the IOF especially violate the affected Palestinians people's entitlements to security of tenure and freedom from dispossession; participation and self-expression; physical security; and adequate compensation for violations and losses. All are elements of the human right to adequate housing as recognized in international law, including minimum obligations that Israel bears under the International Covenant on Economic, Social

and Cultural Rights (ICESCR), which it ratified on 3 January 1992.¹¹ The State flagrantly breaches its obligations, *inter alia*, under the International Covenant for the Elimination of Racial Discrimination (CERD), both in general and specifically Article 5(e)(iii) (the right to housing), which treaty it ratified on 2 February 1979.

Israel also has been specifically condemned by the Committee reviewing the Convention against Torture (CaT), in November 2001, when recognising for the first time house demolition as a form of cruel, inhuman and degrading treatment and/or punishment. Israel ratified CaT on 2 November 1991, accepting its international duty to uphold the human right to freedom from torture and cruel, inhuman and degrading treatment and/or punishment.

It should be noticed here that Israel bears a treaty-bound obligation to respect, protect, promote and fulfil these positive human rights and entitlements in an environment of self-determination, nondiscrimination, gender equality, rule of law, international cooperation, and nonregressivity.

Finally, it is worth noting that the 1998 Rome Statute of the International Criminal Court defines the negative obligation of State to refrain from war crimes, which definition includes both “population transfer” (Arts. 7(1)(d) and 7(2)(d)) and the “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly” (Art. 8, 2.a (iv)).¹²

Action requested

Please write to the authorities in Israel, urging them to international law by :

1. Immediately evacuating from Gaza.
2. Fully compensating all affected communities, especially the residents of Gaza, so as to enable the inhabitants to rebuild their houses and other structures, while government provides basic infrastructures and planning, thereby restoring the community. This should include the immediate construction of the power plant so as to allow the provision of water and basic electrical needs.
3. Reopen access roads and crossings into Gaza so as to allow basic foodstuffs, medical supplies and necessities to enter.

The United Nations, the African Union and the European Union to take immediate action to:

- publicly condemn Israeli actions;
- ensure that Israel upholds its treaty obligations;
- guarantee the security and safety of the occupied Palestinian people;

Addresses of Duty-Holders:

Israel

Ehud Olmert

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Prime Minister's Office

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Haim Ramon

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Please see the attached Sample Letter.

Kindly inform HLRN, ARIJ and Al Mezan of any action undertaken quoting the code of this appeal in your reply to: urgentactions@hlrn.org, fidaa@arij.org and kate@mezan.org.

¹ Information provided by Al Mezan Center for Human Rights, <http://www.mezan.org/>

² Ibid.

³ "Annan warning on Gaza 'disaster'", **BBC Online Edition**, 9 July 2006, found at:

http://news.bbc.co.uk/2/hi/middle_east/5162062.stm

⁴ Euro-Mediterranean Human Rights Network, *Israel's Human Rights Behavior: July 2004-July 2005*. Found at:

<http://www.dci-pal.org/english/doc/reports/2005/Emhrn.pdf>.

⁵ Addameer, "Palestinian Children Political Prisoners", found at

<http://www.addameer.org/detention/children.html>

⁶ WCLAC, "NGO Alternative Pre-Sessional Report on Israel's Implementation of CEDAW in the OPT", January

2005. Found at: <http://www.wclac.org/reports/english.pdf>.

⁷ Reynolds, Paul, "Analysis: Israel's wider aims in Gaza". 3 July 2006, BBC Online, found at:

http://news.bbc.co.uk/2/hi/middle_east/5132932.stm

⁸ B'Tselem, "3 July 2006: Sonic booms constitute collective punishment", found at:

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

⁹ Addameer, "ADDAMEER Fact Sheet: Palestinians detained by Israel", found at:

<http://www.addameer.org/addameer/campaigns/manal/factsheet.html>

¹⁰ In the ruling of the Israeli High Court of Justice in the Beit El case (High Court of Justice 606, 610/78, *Suleiman Tawfiq Ayyub et al. v. Minister of Defence et al*, Piskei Din 33(2)), the Court recognised that The Hague Regulations (1907) are customary law and, therefore, automatically form part of municipal law and are judiciable in Israel.

¹¹ As affirmed in UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 and 7 on the human right to adequate housing, in particular, the latter concerning forced evictions.

¹² Almost all states participating voted in favor of the statute; the United States joined Israel, People's Republic of China, Iraq, Qatar, Libya and Yemen in voting against it. Israel reversed its decision and signed the statute just before the conference closed, but later reversed again and nullified its signature.

[Sample letter for Israeli officials]

Dear Sir:

We are profoundly disturbed by news from the Housing and Land Right Network (HLRN) and local Palestinian organisations about the Israel's application of collective punishment and excessive force against the inhabitants of Gaza and other Occupied Palestinian Territories.

On the 25 June 2006, Palestinian militants conducted a raid at the crossing point and military outpost of Karem Shalom, resulting in Palestinian militants' capture of an Israeli soldier. The raid followed escalating attacks launched by Israeli forces, including the shelling of a North Gaza beach, which killed seven members of a Palestinian family.

The soldier's captors are demanding the release of all Palestinian prisoners, especially the women and children, being held in Israeli jails in exchange for information on the soldier's whereabouts. The State of Israel's response has been to categorically reject any notion of dialogue. Instead, its decision was to invade Gaza and arrest ministers and Legislative Council Members, in order to apply pressure on the captured to gain release of the soldier.

The State of Israel, its elected government and its military forces bear the duty to uphold norms of applicable international humanitarian and human rights law as minimum guidelines for their treatment of the Palestinian civilian population, including refugees. The State has assumed these duties, including by way of its treaty ratifications and affirmations mentioned below. By extension, compliance with these rules also is required of private parties to avoid contributing to the situation that leads to certain violations.

Israel's obstruction of civilian functions and its collective punishments are strictly prohibited under international law. Despite international condemnations, Israeli officials have denied that their use of force is disproportionate, even as PM Ehud Olmert publicly stated that there was no other way to stop "the fear, the shocks, the lack of security" of *Israeli* civilians.

Israel's justification for the Gaza invasion is fundamentally flawed as it could only further endanger the abducted soldier's safety. Israel's refusal to hand over illegally held Palestinian prisoners also has left the crisis in a deadlock, which the State uses further as a pretext to use military force. All measures of collective punishment, wanton destruction of private and public property, detention of civil officials, arbitrary arrests and attacks on civilian persons are violations of minimum humanitarian norms and cannot be justified legally or strategically as measures to secure the release of its soldier in the occupation of the Gaza Strip.

Israel's recent actions in Gaza represent a violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949), which the international community has frequently reaffirmed as *de jure* applicable and which prohibits destruction of civilian properties, collective

punishment and targeting civilians (Articles 33, 53, 49 and 47). The destruction and appropriation of property not justified by military necessity is also considered a grave breach under Article 147. Moreover, Israel's ongoing policy of "targeted assassinations" also contravenes the Fourth Geneva (Civilians) Convention by denying suspects legal entitlements to due process as prescribed under international law.

While Israel has disputed the repeated international affirmation of the Fourth Geneva Convention's *de jure* application, the State has accepted that The Hague Regulations (1907) form part of Israel's domestic law. Another standard of international customary law, the Universal Declaration of Human Rights also affirms in all circumstances that "Everyone has the right to own property alone as well as in association with others..." and that "No one shall be arbitrarily deprived of his [or her] property." Further, the arbitrary deprivation of life contradicts Israel's treaty obligation under the International Covenant on Civil and Political Rights of protecting human life, even in time of public emergency.

These well-reported Israeli military practices also violate the Palestinian inhabitants' human right to adequate housing; i.e., the right of every woman, man and child to gain and sustain a secure place and community in which to live with peace and dignity. Targeted house demolitions represent a grave breach of humanitarian law, and the destruction and resulting forced evictions constitute a gross violation of human rights. Moreover, attacks on infrastructure especially violate housing rights provisions regulating accessibility; habitability; access to public goods and services, including drinking water, sanitation and electricity; and those destructive acts cannot be claimed to meet requirements of military necessity. Because the Israeli Occupation Forces (IOF) generally do not inform the inhabitants in advance of individual house demolitions, do not allow inhabitants a chance to salvage their possessions or furniture, and the IOF do not provide required alternative housing or compensation to victims, the IOF especially violate the affected Palestinians people's entitlements to security of tenure and freedom from dispossession; participation and self-expression; physical security; and adequate compensation for violations and losses. All are elements of the human right to adequate housing as recognized in international law, including minimum obligations that Israel bears under the International Covenant on Economic, Social and Cultural Rights (ICESCR), which it ratified on 3 January 1992. The State flagrantly breaches its obligations, *inter alia*, under the International Covenant for the Elimination of Racial Discrimination (CERD), both in general and specifically Article 5(e)(iii) (the right to housing), which treaty it ratified on 2 February 1979.

It should be noticed here that the State of Israel bears a treaty-bound obligation to respect, protect, promote and fulfil these positive human rights and entitlements in an environment of self-determination, nondiscrimination, gender equality, rule of law, international cooperation, and nonregressivity.

Finally, it is worth noting that the 1998 Rome Statute of the International Criminal Court defines the negative obligation of State to refrain from war

crimes, which definition includes both “population transfer” (Arts. 7(1)(d) and 7(2)(d)) and the “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly” (Art. 8, 2.a (iv)).

We call on you to carry out your duty within the norms and standards required of States. To avoid further violations and senseless destruction of human life and property ensure:

1. Israeli forces’ immediately evacuation of the Gaza Strip;
2. Full compensation to all affected communities, so as to enable the inhabitants to rebuild their houses and other structures, while Israel provides for the restitution of basic infrastructures, including the immediate reconstruction of the power plant so as to allow the provision of water and basic electrical needs to the civilian population;
3. The reopening of access roads and crossings into Gaza so as to allow foodstuffs, medical supplies and other necessities to enter.

We thank you in advance for your attention to this matter and look forward to hearing from you about your remedial response.

Sincerely,

[Name of sending organization and contact information]

[Sample letter to UN and EU officials]

Dear Sir/Madam:

We are profoundly disturbed by news from the Housing and Land Right Network (HLRN) and local Palestinian organisations about the Israel's application of collective punishment and excessive force against the inhabitants of Gaza and other Occupied Palestinian Territories.

On the 25 June 2006, Palestinian militants conducted a raid at the crossing point and military outpost of Karem Shalom, resulting in Palestinian militants' capture of an Israeli soldier. The raid followed escalating attacks launched by Israeli forces, including the shelling of a North Gaza beach, which killed seven members of a Palestinian family.

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On 28 June, the Israeli Army launched a massive military offensive against the people of Gaza through a campaign of collective punishment against the nearly 1.4 million inhabitants. Israeli missiles are attacking civilian and public property, including vital roads, bridges and other infrastructure. The assaults have destroyed Gaza's only power plant supplying the area with most of its household electricity, government buildings, three major bridges, and the Islamic University. Besieging Israeli forces have closed all crossings into Gaza (except instances of the Karni Crossing opening for a few hours), depriving access to vital aid and humanitarian workers, and barring observers and journalists. The repeated use of predawn sonic booms causes general fear among the civilian population, especially children. The destruction of civilian infrastructure has continued despite international condemnations.

Since the start of the siege, at least 91 Palestinians have died, including 23 children and 188 have been injured.ⁱ Gaza currently endures a total suspension of electricity after the Israeli army bombed the only electricity station in the area. Petrol resources have become depleted, causing many of the water wells to stop running, depriving the Sheikh Radhwan neighbourhood, for example.ⁱⁱ In addition, Israeli authorities have prohibited the entry of basic aid, including food and medical supplies. The severe shortage of basic necessities and the lack of water places many Palestinians at serious risk of starvation. Israel has also shut down the main civilian crossings into Gaza, including Rafah, thus stranding 4,700 residents on the Egyptian side of Gaza's border.

Israel has long pursued discriminatory policies against the indigenous Palestinian population to the detriment of human rights to life and livelihood. The principal measures have included the dispossession and destruction and

dispossession of Palestinians' homes, villages and lands. Although Israel's related violence and destruction have become part of the daily lives of Palestinians, especially in the occupied Palestinian territories, the particularly cruelty of this most-recent round now threatens the subsistence of over 1.4 million Gazans.

The demands of the Israeli soldier's captors reflect a common sentiment among the Palestinian population, subject to Israel's continued arbitrary arrests, dispossession and other discriminatory policies. Nearly 10,000 Palestinians are currently being held in Israeli jails, 4,000 of which are currently held in detentions camps, including 380 children (all under the age of 17), according to *Defense for Children International (Palestine branch)*.ⁱⁱⁱ Many are held indefinitely as administrative detainees, thus denied the right to a trial or to an attorney. Palestinian children prisoners are detained with adult prisoners in squalid conditions and with little or no access to education.^{iv} Arrests often are conducted at checkpoints or at the child's residence late at night, Israeli captors' explanations of detainee's charges or whereabouts after arrests are often vague and incomplete. They interrogate Palestinian children without the presence of defence lawyers and under extreme physical and psychological stress.

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Palestinian women prisoners are treated in a manner equally as inhumane as children. According to the *Women's Center for Legal Aid and Counselling*, approximately 129 Palestinian women remain in Israeli prisons; 11 women are being administratively detained (without charge or trial); 74 are being held pending trial; and 44 have been sentenced. Twelve of these women prisoners are under the age of 18. Palestinian women prisoners and detainees, in particular, are habitually sexually harassed and threatened with rape in order to induce them to divulge information or produce false confessions.^{vi}

The approximately 1.4 million residents of Gaza are living under a continuous military offensive. Approximately 750,000 civilians consequently have been deprived access to basic services, including electricity and running water (due to the electricity cut). In addition, the resulting inadequate maintenance of the sewage system, including for lack of electricity, exacerbates the humanitarian crisis as a further hazard to public health.

The State of Israel, its elected government and its military forces bear the duty to uphold norms of applicable international humanitarian and human rights law as minimum guidelines for their treatment of the Palestinian civilian population, including refugees. The State has assumed these duties, including by way of its treaty ratifications and affirmations mentioned below. By extension, compliance with these rules also is required of private parties to avoid contributing to the situation that leads to certain violations.

Israel's obstruction of civilian functions and its collective punishments are strictly prohibited under international law. Despite international condemnations, Israeli officials have denied that their use of force is disproportionate. PM Ehud Olmert said there was no other way to stop "the fear, the shocks, the lack of security" of *Israeli* civilians.^{vii}

Israel's justification for the Gaza invasion is fundamentally flawed as it could only further endanger the abducted soldier's safety. Israel's refusal to hand over illegally held Palestinian prisoners also has left the crisis in a deadlock, which the State uses further as a pretext to use military force. All measures of collective punishment, wanton destruction of private and public property, detention of civil officials, arbitrary arrests and attacks on civilian persons are violations of minimum humanitarian norms and cannot be justified legally or strategically as measures to secure the release of its soldier in the occupation of the Gaza Strip.

Israel's recent actions in Gaza represent a violation of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949), which the international community has frequently reaffirmed as *de jure* applicable and which prohibits destruction of civilian properties, collective punishment and targeting civilians (Articles 33, 53, 49 and 47). The destruction and appropriation of property not justified by military necessity is also considered a grave breach under Article 147 of the Fourth Geneva Convention. Moreover, Israel's ongoing policy of "targeted assassinations" also contravenes the Fourth Geneva (Civilians) Convention by denying suspects legal entitlements to due process as prescribed under international law.

While Israel has disputed the repeated international affirmation of the Fourth Geneva Convention's *de jure* application, the State has accepted that The Hague Regulations (1907) form part of Israel's domestic law.^{viii} Another standard of international customary law, the Universal Declaration of Human Rights also affirms in all circumstances that "Everyone has the right to own property alone as well as in association with others..." and that "No one shall be arbitrarily deprived of his [or her] property." Further, the arbitrary deprivation of life contradicts Israel's treaty obligation under the International Covenant on Civil and Political Rights of protecting human life, even in time of public emergency.

These well-reported Israeli military practices also violate the Palestinian inhabitants' human right to adequate housing; i.e., the right of every woman,

man and child to gain and sustain a secure place and community in which to live with peace and dignity. Targeted house demolitions represent a grave breach of humanitarian law, and the destruction and resulting forced evictions constitute a gross violation of human rights. Moreover, attacks on infrastructure especially violate housing rights provisions regulating accessibility; habitability; access to public goods and services, including drinking water, sanitation and electricity; and those destructive acts cannot be claimed to meet requirements of military necessity. Because the Israeli Occupation Forces (IOF) generally do not inform the inhabitants in advance of individual house demolitions, do not allow inhabitants a chance to salvage their possessions or furniture, and the IOF do not provide required alternative housing or compensation to victims, the IOF especially violate the affected Palestinians people's entitlements to security of tenure and freedom from dispossession; participation and self-expression; physical security; and adequate compensation for violations and losses. All are elements of the human right to adequate housing as recognized in international law, including minimum obligations that Israel bears under the International Covenant on Economic, Social and Cultural Rights (ICESCR), which it ratified on 3 January 1992.^{ix} The State flagrantly breaches its obligations, *inter alia*, under the International Covenant for the Elimination of Racial Discrimination (CERD), both in general and specifically Article 5(e)(iii) (the right to housing), which treaty it ratified on 2 February 1979.

Israel also has been specifically condemned by the Committee reviewing the Convention against Torture (CaT), in November 2001, when recognising for the first time house demolition as a form of cruel, inhuman and degrading treatment and/or punishment. Israel ratified CaT on 2 November 1991, accepting its international duty to uphold the human right to freedom from torture and cruel, inhuman and degrading treatment and/or punishment.

It should be noticed here that Israel bears a treaty-bound obligation to respect, protect, promote and fulfil these positive human rights and entitlements in an environment of self-determination, nondiscrimination, gender equality, rule of law, international cooperation, and nonregressivity.

Finally, it is worth noting that the 1998 Rome Statute of the International Criminal Court defines the negative obligation of State to refrain from war crimes, which definition includes both "population transfer" (Arts. 7(1)(d) and 7(2)(d)) and the "extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly" (Art. 8, 2.a (iv)).^x

In the spirit of international cooperation to uphold at least the minimum standards of State behaviour under public international law, we urge you to do all within your means to ensure Israel's respect of these humanitarian and human rights standards and avoid further violations and senseless destruction of human life and property. In particular, we call on you publicly to:

1. condemn Israeli actions;
2. guarantee the security and safety of the occupied Palestinian people;

3. call for Israeli forces' immediately evacuation of the Gaza Strip;
4. demand that Israel uphold its treaty obligations, including by way of:
 - a. providing full compensation to all affected communities, so as to enable the inhabitants to rebuild their houses and other structures, while Israel provides for the restitution of basic infrastructures, including the immediate reconstruction of the power plant so as to allow the provision of water and basic electrical needs to the civilian population;
 - b. reopening of access roads and crossings into Gaza so as to allow foodstuffs, medical supplies and other necessities to enter.

We thank you in advance for your attention to this matter, and look forward to hearing from you about your constructive response.

Please be assured of our highest consideration.

Sincerely,

[Name of sending organization and contact information]

ⁱ Information provided by Al Mezan Center for Human Rights, <http://www.mezan.org/>

ⁱⁱ Ibid.

ⁱⁱⁱ Euro-Mediterranean Human Rights Network, *Israel's Human Rights Behavior: July 2004-July 2005*. Found at: <http://www.dci-pal.org/english/doc/reports/2005/Emhrn.pdf>.

^{iv} Addameer, "Palestinian Children Political Prisoners", found at <http://www.addameer.org/detention/children.html>

^v Addameer, "ADDAMEER Fact Sheet: Palestinians detained by Israel", found at: <http://www.addameer.org/addameer/campaigns/manal/factsheet.html>

^{vi} WCLAC, "NGO Alternative Pre-Sessional Report on Israel's Implementation of CEDAW in the OPT", January 2005. Found at: <http://www.wclac.org/reports/english.pdf>.

^{vii} "Israel denies 'excessive force'," *BBC World* (10 July 2006), at: http://news.bbc.co.uk/2/hi/middle_east/5164258.stm.

^{viii} In the ruling of the Israeli High Court of Justice in the Beit El case (High Court of Justice 606, 610/78, *Suleiman Tawfiq Ayyub et al. v. Minister of Defence et al*, Piskei Din 33(2)), the Court recognised that The Hague Regulations (1907) are customary law and, therefore, automatically form part of municipal law and are judiciable in Israel.

^{ix} As affirmed in UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 and 7 on the human right to adequate housing, in particular, the latter concerning forced evictions.

^x Almost all states participating voted in favor of the statute; the United States joined Israel, People's Republic of China, Iraq, Qatar, Libya and Yemen in voting against it. Israel reversed its decision and signed the statute just before the conference closed, but later reversed again and nullified its signature.