

Written Statement submitted by BADIL Resource Center for Palestinian Residency and Refugee Rights

Tuesday, 22 July 2014

Mr. President, Distinguished Members of the Council,

BADIL Resource Center for Palestinian Refugee and Residency Rights strongly condemns Israel's ongoing indiscriminate and disproportionate attacks against Palestinian civilians and civilian objects in the Gaza Strip. BADIL is concerned about the international community devastating failure to exert real pressure on Israel, the occupying power, to bring its actions in line with its obligations under international humanitarian law.

'Operation Protective Edge' erupted in the context of an already on-going armed conflict and belligerent occupation. The population of the Gaza Strip has been living under an Israeli imposed blockade for the past seven years. This constitutes a form of collective punishment, which is expressly prohibited under international humanitarian law, as well as an ongoing offensive measure threatening the stability and infringing the right of well-being of Gaza population and every individual's "right to life, liberty and security of person".

The pre-existing state of armed conflict, the constant and systematic violations of Palestinians collective and individual fundamental rights, the illegally punitive and coercive measures and attacks undertaken by Israel before the recent offensive attacks, prohibits Israel from invoking the right to self-defense, under Article 51 of the UN Charter, as a justification for the military attacks on civilians in the region. Furthermore, considered against the backdrop of Israel's wide-scale punitive military operation across the West Bank following the disappearance and death of three Israeli settlers, the recent attacks on civilians in the Gaza Strip indicate that a larger political agenda fuels Israel's aggressive actions. Once again, Israel has taken an offensive military position against the Gaza Strip and illegally imposed collective punishment on the entire region.

As of 21 July 2014 at 1:00 pm, Palestinian human rights organizations have documented the killing of 505 Palestinians, including 130 children and 64 women, in the furtherance of 'Operation Protective Edge'. According to Al Mezan's initial investigations, 78.6% of the Palestinians killed are considered civilians. Furthermore, at least 2,665 Palestinians have sustained injuries, 2,945 houses, 45 schools, 54 mosques, an ambulance centre, 16 NGO offices, 39 fishing boats and 4 hospitals were damaged or destroyed.¹

All parties engaged in hostilities during armed conflict must abide by international humanitarian law. First, the principle of distinction requires all parties to distinguish between civilians and combatants, as well as between civilian objects and military objectives. Second, the principle of proportionality dictates that launching an attack, which may be expected to cause incidental loss of

¹ Ibid.

civilian life, injury to civilians or damage to civilian objects, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited.

In light of the deplorable number of civilian casualties, there can be little doubt that Israel is directly targeting civilians for the purposes of weakening the Palestinian people's will to resist the military offensive and the prolonged occupation. Of the 505 Palestinians killed in the conflict thus far, over 78.6% are civilians. By their own admission, Israel has thus far intentionally targeted Palestinian civilians and homes. For example, on 8 July, the Israeli army spokesperson announced that the Israeli military had deliberately bombed four homes of persons defined by Israel as senior Hamas activists.² According to international customary law, a permissible military objective is "limited to those objects which by their nature, location, purpose or use make an effective contribution to military action [...] offers a definite military advantage".³ In these instances, the punitive targeting of family homes, in which one or more residents may have links with armed groups but are not taking active part in hostilities, and in which it is well-known that civilians, namely women, children, and the elderly reside, is unequivocally impermissible.

In addition, Human Rights Watch investigated eight Israeli air strikes, prior to the ground incursion, that resulted in civilian casualties and "either did not attack a legitimate military target or attacked despite the likelihood of civilian casualties being disproportionate to the military gain", violating either the principle of distinction or the principle of proportionality, respectively.⁴ The attacks investigated included a "missile attack that killed four boys on a Gaza City pier and wounded three others, multiple strikes over several days on a hospital for paralyzed and elderly patients, attacks on an apparent civilian residence and media worker's car".⁵ As a result of their investigation, Human Rights Watch concluded that Israeli air strikes were not proportional, and directly targeted civilians in contravention of international law, amounting to war crimes against the Palestinian people of the Gaza Strip.

Furthermore, under the Law of Belligerent Occupation, Palestinian civilians in the occupied territory are protected persons under the Fourth Geneva Convention. As an Occupying Power, Israel must ensure the well-being and safety of the occupied population. Thus, prior to launching a military attack Israel is obliged to provide "effective advance warning" of attacks that "may affect the civilian population" and take precautions in the choice of methods of attack to avoid and minimize civilian casualties. The 'roof-knocking method' currently and previously employed by Israel, in which Israel warns Palestinian civilians of an upcoming airstrike by bombing their home, is unlawful due to the intentional and unnecessary damage caused to civilians' homes and the unjustified and serious threat to civilian lives that it poses. Worse even, Palestinian civilians have been senselessly killed by 'warning missiles' during Israel's recent military offensive, including at least three women and one child.

Regardless of whether or not Israel were to employ an alternative and preferable warning system in advance of attacks, Gaza residents still face the impossible decision of choosing where to flee.

² http://www.btselem.org/gaza_strip/20140708_gaza_operation

³ ICRC, International Customary Law Rule 8

⁴ <http://www.hrw.org/news/2014/07/15/israel-palestine-unlawful-israeli-airstrikes-kill-civilians>

⁵ <http://www.hrw.org/news/2014/07/22/gaza-airstrike-deaths-raise-concerns-ground-offensive>

Israeli attacks in the Gaza Strip are wide-spread and indiscriminate, thus making no one location in Gaza safe for civilians. The Israeli blockade of Gaza renders it impossible for Palestinian residents of Gaza to effectively escape the danger of which they are being warned.

The mass displacement of Palestinians, who were forced to leave their homes due to destruction or fear for their lives, has exorbitantly increased since Israel's ground incursion. While 23,000 Palestinians were forcibly displaced during the first nine days of Operation Protective Edge, this number more than doubled when Israel began its ground offensive on 17 July.⁶ Now, UN figures estimate that well over 100,000 Palestinians are internationally displaced,⁷ while a report by the Palestinian Center for Human Rights indicates that at least 170,000 Palestinians have been forcibly displaced only from the areas located along the border between the Gaza Strip and Israel (the buffer zone).⁸ In addition, 84,000 internally displaced persons are currently living in 61 UNRWA schools; clearly overcharging UNRWA's capability to address the humanitarian needs of all Gaza residents, not only those taking shelter in its schools.

As a result of the seven-year Israeli blockade that has imprisoned the people of Gaza, 80% of Gaza residents are dependent on humanitarian aid for their survival. In addition, the blockade has created a severe shortage in medical supplies, fuel, and electricity in Gaza hospitals, which are struggling to meet the needs of all those injured by the recent attacks.⁹ Similarly, the blockade's prohibition on the entry of building materials into Gaza has left many residents unable to rebuild after the previous two Israeli offensives in the region.

Israel's blockade on the Gaza Strip has been recognized by the UN as amounting to collective punishment,¹⁰ which is prohibited by Article 33 of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War. However, the ceasefires that gave end to both 'Operation Cast Lead' in 2009¹¹ and 'Operation Pillar of Defense' in 2012¹² did not result in an end to the blockade. Therefore, any ceasefire agreement reached for the resolution of 'Operation Protective Edge' must include a provision that will immediately, and definitively end the blockade on Gaza. A ceasefire agreement that not only calls for an immediate disengagement of hostilities, but also address the root causes themselves, is necessary to stop the repetitive cycle of attacks upon Gaza and subsequent hostilities in the region.

Considering the UN Human Rights Council's concern over the matter of Israel's occupation of the OPT, and the urgency to bring to the attention of the Security Council and General Assembly any matter which may threaten the maintenance of international peace and security, PHROC calls on Mr. President and the Distinguished Members of the Council to:

⁶ http://www.ochaopt.org/documents/ocha_opt_sitrep_18_07_2014.pdf, p. 2.

⁷ http://www.ochaopt.org/documents/ocha_opt_sitrep_21_07_2014.pdf, p. 1.

⁸ http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=10520:another-bloody-day-on-the-14th-day-of-the-israeli-offensive-complete-families-attack-while-inside-their-homes-rescue-crews-to-search-for-victims-in-al-shujaiya-neighborho

⁹ <http://www.amnesty.org/en/news/israelgaza-un-must-impose-arms-embargo-and-mandate-international-investigation-civilian-death-t>

¹⁰ OCHA - Occupied Palestinian Territories, *Easing the Blockade: Assessing the Humanitarian Impact on the Population of the Gaza Strip*, Special Focus, March 2011, 2.

¹¹ http://www.alhaq.org/attachments/article/208/Legal_Brief_Gaza_Cast_Lead_Jan.pdf

¹² http://www.alhaq.org/images/stories/PDF/2012/QA_Gaza_Strip_27Nov2012.pdf

- Immediately and unequivocally condemn Israel's indiscriminate and disproportionate attacks against Palestinian civilians and civilian objects and clarify these violations as grave breaches of Israel's obligations under international law;
- Demand that all parties comply with their international humanitarian law obligations, including the principles of distinction, proportionality and military necessity;
- Insist on adopting effective and practical measures aim to end the root cause of the ongoing hostilities, namely the illegal blockade of Gaza, Israel's belligerent occupation, and the accompanying violations of international law;
- Establish and deploy a United Nations international protection force with the mandate of identifying those perpetrators responsible for violations, ensuring they are held accountable, and coordinating with appropriate UN and judiciary bodies.
- Continue to bring to the attention of the Security Council violations of Palestinians' rights and to take measures aim at ensuring non-repetition of Israeli attacks;
- Call upon the General Assembly to recommend that the Security Council bring Israel before the International Criminal Court to account for the war crimes committed against civilians in the Gaza Strip.