



Refugee Documentation Centre (Ireland)
LEGAL AID BOARD

Palestinian Authority - Researched and compiled by the Refugee Documentation Centre of Ireland on 7 March 2010

Information relating to the security situation including the dangers faced by civilians due to the ongoing conflict and recent civilian deaths in Gaza.

A March 2010 *Amnesty International* Press Release reports:

“Amnesty International has urged the Hamas de facto administration in Gaza not to carry out several pending death sentences, after high-ranking officials signalled their intention to execute those convicted of "collaboration" with Israel and "murder".

It is feared that these executions, which would be the first to be carried out in Gaza since 2005, may be carried out in the next few days.

Since seizing control of Gaza in 2007, Hamas has not carried out executions although its military courts have continued to hand down death sentences after proceedings that failed to meet international standards for fair trial.

‘Hamas must not start carrying out executions. That would be a profoundly retrograde step and go against the emerging trend towards a worldwide moratorium on executions,’ said Malcolm Smart, Director of Amnesty International’s Middle East and North Africa Programme.

‘It would be especially abhorrent to execute prisoners who, as in these cases, were sentenced to death after proceedings which failed to meet international fair trial standards.’

Hamas has not released information on how many people could face execution. However, in 2009, a total of 14 people are known to have been sentenced to death by military courts in Gaza after being convicted on charges of ‘collaboration’, treason and murder.” (Amnesty International (31 March 2010) *Hamas must not carry out executions in Gaza*)

The March 2010 *United States Department of State* Country Report on Human Rights Practices for Israel and the occupied territories states:

“Palestinian rocket and terrorist attacks killed four and injured 34 civilians in Israel during the year; such attacks killed three at the start of hostilities on December 27 and 29, 2008. There were 125 rockets and 70 mortar shells fired into Israel from Gaza since the end of Operation Cast Lead on January 21, and 850 rockets and mortar shells during the hostilities, compared with 1,750 rockets and 1,528 mortar shells in 2008.

In response to a sharp increase in the number and frequency of rocket attacks into Israel prior to and following the expiration of Hamas' agreed period of "calm" on December 19, 2008, the Israeli Air Force launched Operation Cast Lead, consisting initially of airstrikes on December 27 against Hamas security installations, personnel, and other facilities in the Gaza Strip, followed on January 3 by ground operations. Hostilities between Israeli forces and Hamas fighters continued through January 18, and the Israeli withdrawal of troops was completed on January 21. Human rights organizations estimated the number of dead at close to 1,400 Palestinians, including more than 1,000 civilians, and the wounded at more than 5,000. According to government figures, Palestinian deaths totaled 1,166, including 295 noncombatant deaths. The discrepancy over civilian deaths largely centered on whether the 248 Hamas police officers killed were considered civilians. There were 13 Israelis killed, including three civilians. Further information on the human rights situation in Gaza and the West Bank is in the Annex.

The President of the UN Human Rights Council (HRC) established the United Nations Fact Finding Mission on the Gaza Conflict to investigate Israeli violations of international human rights and humanitarian law in the context of military operations in Gaza, whether before, during, or after Operation Cast Lead. On September 29, Justice Richard Goldstone, who headed the mission, presented the report (commonly known as the "Goldstone report") to the HRC in Geneva. The Goldstone report investigated 36 incidents of alleged violations by the IDF in Gaza, as well as alleged violations by Palestinians. This reflected an effort by Goldstone to broaden the scope of his report beyond the original mandate, which was limited only to violations by Israel. Among its many conclusions, the report claimed that members of the IDF were responsible for deliberate targeting of civilians, for the destruction of critical infrastructure in Gaza, and for using weapons such as white phosphorous in highly populated areas, all of which it deemed to be violations of international humanitarian law. The Goldstone report was widely criticized for methodological failings, legal and factual errors, falsehoods, and for devoting insufficient attention to the asymmetrical nature of the conflict and the fact that Hamas and other Palestinian militants were deliberately operating in heavily populated urban areas of Gaza. The government of Israel also sharply rejected the charge that it had a policy of deliberately targeting civilians. IDF military advocate general Mandelblit was responsible for reviewing all allegations relating to Operation Cast Lead, including those contained in the Goldstone Report. At the end of the year, Mandelblit's investigations were ongoing." (United States Department of State (Bureau of Democracy, Human Rights, and Labor) (11 March 2010) *2009 Country Reports on Human Rights Practices - Israel and the occupied territories*)

In the Gaza strip section of the January 2010 *Human Rights Watch* World Report for Israel/Occupied Palestinian Territories (OPT), under the heading 'blockade', it is noted:

"Israel's comprehensive blockade of the Gaza Strip, imposed since June 2007, continued to have severe humanitarian and economic consequences for the civilian population, particularly during the war. Hundreds of thousands of people

lacked electricity, running water, cooking gas, gasoline and other goods for weeks on end; raw sewage flooded some city streets; hospitals were overcrowded, lacked essential medicines, and were often inaccessible to the wounded.

As of September roughly 20,000 people remained homeless and 10,000 remained without water. Items Israel prohibited from entry included reconstruction materials, chickpeas, dates, macaroni, a water purification system, and 120 truckloads of school supplies. The only exports that Israel allowed consisted of several shipments of carnations.

Israeli officials stated that the blockade would remain in place until Hamas releases Gilad Shalit. The blockade, supported by Egypt at Rafah's Gaza border, amounts to a form of collective punishment of Gaza's 1.5 million civilians in violation of international law. Israel is Gaza's major source of electricity and sole source of fuel, which Israel does not permit from other sources, so its restrictions on their supply cripple transportation as well as water-pumping, sewage, and sanitation facilities.

In September, the office of the Coordinator of Government Activities in the Territories (COGAT), a unit of the Israeli defense ministry, severed contacts with Israeli human rights organizations handling individual applications for exit permits from Gaza, even in emergency humanitarian cases. Gaza residents have no direct access to the Israeli military authorities." (Human Rights Watch (20 January 2010) *World Report 2010 - Israel / Occupied Palestinian Territories (OPT)*)

A January 2010 news report from the *UN News Service* states:

"United Nations agencies and their non-governmental partners today warned of the impact of the Israeli blockade on Gaza's population and on health services, and repeated their call for an immediate opening of the border crossings.

"The continuing closure of the Gaza Strip is undermining the functioning of the health care system and putting at risk the health of 1.4 million people in Gaza," Max Gaylard, the UN Humanitarian Coordinator for the occupied Palestinian territory, said in a joint statement with the Association of International Development Agencies.

Hospitals and primary care facilities, damaged during the fighting in Gaza one year ago, have not been rebuilt because construction materials are not allowed into the territory owing to the ongoing blockade, which is now in its third year.

Operation 'Cast Lead' - the three-week military operation which Israel said it launched in response to rocket and other attacks by militants in Gaza - damaged 15 of Gaza's 27 hospitals, and 43 of its 110 primary health-care facilities were either damaged or destroyed.

Certain types of medical equipment, such as x-ray equipment and electronic devices, are very difficult to bring in, and health professionals in Gaza have been cut off from the outside world, the statement noted.

The World Health Organization (WHO) pointed out that many specialized treatments, such as for complex heart surgery and certain types of cancer, are not available in Gaza and patients are therefore referred for treatment to hospitals outside Gaza.

But many patients have had their applications for exit permits denied or delayed by the Israeli authorities and have missed their appointments, with some having died while waiting for referral." (UN News Service (20 January 2010) *Ongoing Israeli blockade jeopardizing health of over 1 million Gazans, UN warns*)

A December 2009 *IRIN News* report notes:

"CAIRO, 28 December 2009 (IRIN) - More than 1,000 people from 42 countries who have vowed to travel from Cairo to the Gaza Strip on 31 December in a bid to highlight and break the Israeli economic blockade, will be prevented from carrying out their mission, according to the Egyptian authorities.

The protesters hope to bring aid to the 1.5 million residents of Gaza a year after Israel's 23-day offensive ended on 18 January 2009.

"It's a shame on Egypt to prevent these people from entering Gaza, which has been suffering this Israeli blockade for a long time now," Diaaeddin Gad, a spokesman for the activists, told IRIN.

On 27 December, the marchers were prevented by police from floating 1,400 candles on the River Nile to commemorate the deaths of 1,400 Palestinian victims of the offensive.

Margaret Hawthorn, 62, who flew in from Massachusetts in the USA to take part in the event, said she was stunned to discover she would not be allowed to show solidarity with the Gazan people. "It's important that we come here to express support for the people of Gaza," she told IRIN." (IRIN News (28 December 2009) *Egypt-OPT: Egypt blocks Gaza protesters*)

Under the heading 'Assessment on Human Rights Violations committed during the military operation', a December 2009 *International Federation for Human Rights* report states:

"In the aftermath of Operation 'Cast Lead' conducted by the Israeli army in the Occupied Gaza Strip from 27 December 2008 to 17 January 2009 when unilateral ceasefires were announced by both Israel and Hamas, some 1,400 Palestinians had been killed, including some 300 children and hundreds of other unarmed civilians, and large areas of Gaza had been razed to the ground, leaving many thousands homeless and the already dire economy in ruins. The International Federation for Human Rights (FIDH) has been working very closely with its member organizations in Israel (Adalah, Association for Civil Rights in Israel - ACRI, B'Tselem and the Public Committee Against Torture in Israel - PCATI) and in the Palestinian Occupied Territory (Al Haq and the Palestinian Center for Human Rights - PCHR), in conformity with the priorities set forth by

the organization in the fight against impunity. 'Cast Lead' has prompted reports and fact-finding missions by a very large number of human rights and humanitarian organizations, as well as, for the first time, by inter-governmental regional organizations such as the Arab League. This compilation is an attempt to create a comprehensive reference of FIDH's own and multi-lateral actions in this regard.

International humanitarian law (IHL), and namely the Geneva Conventions, requires that every state deals with serious violations of the laws of war, including those which are committed by bodies or persons acting on its behalf or with its consent. The devastation brought about by Operation Cast Lead was starkly clear. On January 9, a group of non-governmental organizations (NGOs) including several FIDH member organizations found it necessary to address the contracting parties of the Geneva Convention, due to the obvious destruction that was underway.

Dear High Contracting Parties to the Fourth Geneva Convention,

As local, regional and international human rights organisations concerned with respect for international humanitarian law in the Occupied Palestinian Territory (OPT), and in all situations of armed conflict, it is in both desperation and hope that we write to call for the urgent reconvening of the Conference of High Contracting Parties to the Fourth Geneva Convention. The past two weeks have witnessed the heaviest aerial bombardment of the Gaza Strip since 1967, and the situation of the protected civilian population there is more critical than ever before.

From: Joint Open Letter to the High Contracting Parties to the Fourth Geneva Convention' (International Federation for Human Rights (FIDH) (21 December 2009) *Israel & Occupied Palestinian Territories Operation Cast Lead, One Year After: Accountability, a Key Challenge for Peace*, p.5)

Under the heading 'summary', an August 2009 *Human Rights Watch* Report on civilian deaths in Gaza states:

"This report documents seven incidents where Israeli soldiers fired on civilians with small arms during Israel's major military operations in Gaza in December 2008 and January 2009. These attacks killed 11 civilians—including five women and four children—and wounded at least another eight.

These casualties comprise a small fraction of the Palestinian civilians killed and wounded during what Israel called Operation Cast Lead, but they stand out because of the circumstances of the attacks. In each case, the victims were standing, walking, or in a slowly moving vehicle with other unarmed civilians who were trying to convey their non-combatant status by waving a white flag. All available evidence indicates that Israeli forces had control of the areas in question, no fighting was taking place there at the time, and Palestinian fighters were not hiding among the civilians who were shot. Whether waving a white flag or not, these people were civilians not taking an active part in hostilities, and therefore should not have been attacked, according to international humanitarian

law (the laws of war).” (Human Rights Watch (13 August 2009) *White Flag Deaths: Killings of Palestinian Civilians during Operation Cast Lead*, p.2)

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This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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