

Memorandum

**To members of the United Nations Independent Commission
of Inquiry on the 2014 Gaza Conflict,
Professor William Schabas, Justice Mary McGowan Davis
and Dr. Doudou Diène**

By email to coigaza@ohchr.org
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Palestinian Media Watch (PMW)

<http://www.palwatch.org/pages/aboutus.aspx>

and

The Middle East Media Research Institute (MEMRI)

<http://www.memri.org/middle-east-media-research-institute.html>

INTRODUCTION

This memorandum is submitted in response to your call for submissions by individuals and on the assumption that articles 10 and 11 of The Universal Declaration of Human rights apply equally to states as well as to individuals. Article 10 states that everyone is entitled **in full equality** to a fair and public hearing by an independent and impartial tribunal and article 11 states that everyone has the right to be presumed innocent until proved guilty.

The words "full equality" above are emphasized because they relate to a statement by Professor Schabas in an August 15, 2014 article in the Forward that the most common complaint he hears is why the UN is singling out Israel, while human rights are violated in so many other countries and that he agrees that these claims have some merit. He says

“One of the great problems of the U.N. human rights system is double standards, and there are double standards throughout the system because of the politics of the human rights council.”

Former Canadian Justice Minister Irwin Cotler has said

“The singling out for discriminatory indictment of one state undermines the whole UN system.. The UN has been the stage annually of at least 22 resolutions condemning Israel—more than the total number of resolutions against all other states put together.”

As Professor Schabas ascribes the bias to the political agendas of the countries making up the council and describes it as “regrettable” I am confident he will avoid such bias. He said his views should not disqualify him from conducting an objective investigation and to his credit he says that he intends to park his opinions at the door.

This memorandum is therefore submitted in the belief that all members of the commission will avoid the acknowledged pernicious double standard against Israel and will measure Israel's defensive actions in exactly the same manner as they judge actions by NATO and Western countries taking into account that Israel has for long suffered terrorist threats similar to those currently being experienced in Europe.

It is regrettable that the hearings are not available by video on the internet and that the submissions from the public will not be made similarly available as was done during the Goldstone mission proceedings. After all “**justice should not only be done, but should manifestly and undoubtedly be seen to be done.**”

I am also influenced by a remark by Professor Schabas in an interview with CNN during which he was quoted as saying that comments previously made by him must be appreciated in their **CONTEXT**. The data that I submit herein is intended to provide the **CONTEXT** in which the events that you are investigating have taken place. There can be no doubt that the evidence you will hear and that you have heard cannot be intelligently evaluated unless their **CONTEXT** is carefully studied and fully understood

1. THE CASUS BELLI and PROTECTIVE EDGE IN CONTEXT

The often made claim that Israel attacked Gaza as a matter of choice is patently false. Operation Protective Edge, began after continual and relentless rocket attacks on Israeli cities. To quote President Obama

".. no country would tolerate rockets being launched into their cities. As a consequence, I have consistently supported Israel's right to defend itself, and that includes doing what it needs to do to prevent rockets from landing on population centers and, more recently, as we learned, preventing tunnels from being dug under their territory that can be used to launch terrorist attacks..I also think it is important to remember that Hamas acts extraordinarily irresponsibly when it is deliberately siting rocket launchers in population centers, putting populations at risk because of that particular military strategy,"
Press Trust of India on August 7, 2014

It is common knowledge that Israel has been continuously subjected to the threat of military as well as terror attacks since day one. Until the defensive barrier was built, Israel suffered more than 150 suicide-bombing attacks averaging one every two months followed by innumerable rocket attacks.



Since 2001 more than 15,200 rockets and mortars landed in Israel giving men women, children and the elderly between 15 and 60 seconds to find shelter (depending on locality).

There can be no doubt that Israel had no alternative but to take military action in order to defend its citizens from these unprovoked attacks.

According to a Human Rights Watch report of August 6, 2009

" Hamas and other Palestinian armed groups have sought to justify the attacks as appropriate reprisals for Israeli military operations and the ongoing blockade against Gaza, and as a lawful response to the Israeli occupation of Gaza. **As noted below, international humanitarian law (the “laws of war”) does not support these asserted justifications.**"

The claim that the blockade of Gaza justifies the Hamas rockets is dealt with in some detail in part 5 of this paper.

Protective Edge

Contrary to conventional wisdom these missiles are not toys as is evident from the picture below of a burning factory in Sderot that was hit by a rocket from Gaza on June 28, 2014 (Photo by Natan Flayer [CC BY-SA 3.0]¹

¹ (<http://creativecommons.org/licenses/by-sa/3.0>),

Nor are the missiles confined to a short range as evident from those that reached Tel Aviv and Jerusalem. Of the thousands of rockets fired at Israel during the 50 days of Operation Protective Edge several thousand landed in Israel, hundreds were intercepted by the Iron Dome and many fell short, landing in Gaza and causing local casualties. One hit the |Shifa hospital and another landed near a school.

Consequently account must be taken of these self-inflicted casualties.



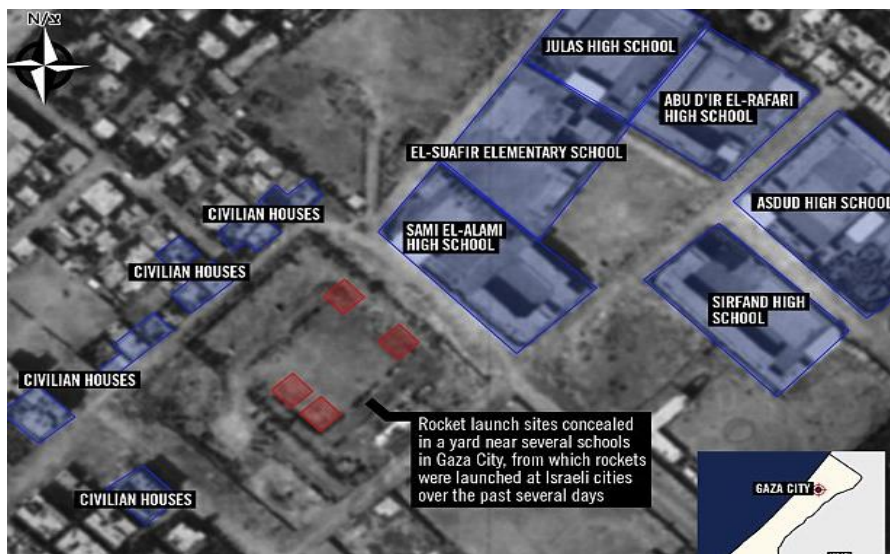
Indiscriminate rocket fire on civilians



No less than the PA envoy to the UNHRC, Ibrahim Khreisheh, has said Palestinian terrorist groups are far worse violators of international law than Israel.² Contrasting the fact that Israeli forces always warned civilians before launching airstrikes to the actions of Hamas and other armed groups, he said

"The missiles that are now being launched against Israel - each and every missile constitutes a crime against humanity, whether it hits or misses, because it is directed at civilian targets."

Firing from heavily populated areas into populated areas (a double war crime)



² <https://www.youtube.com/watch?v=DjzS27yICZ8>

As clearly shown in the photos Hamas deliberately fired rockets from densely populated areas into heavily populated civilian areas including schools, kindergartens and hospitals.



On August 5, Indian TV station NDTV presented a remarkable video³ report by one of the most balanced commentators on the air, Sreenivasan Jain. He filmed the preparation of a rocket firing platform right outside his hotel window in a densely populated area. Jain explained that it was published after the team left Gaza as Hamas has not taken kindly to reporting of rockets being fired adding



“just as we reported the devastating consequences of Israel’s offensive on Gaza’s civilians, **it is equally important to report on how Hamas places those very civilians at risk by firing rockets deep from the heart of civilian zones**”

Gaza's open areas



Apologists for this admitted launching of missiles from heavily populated areas claim that Hamas had no choice because they say Gaza is the most densely populated area in the world and that there are no open areas in Gaza. These claims are also blatantly false. Compared with Gaza's 4,506 persons per square kilometer Monaco has 36,356, Singapore 7,751 and London 5,100 (Source: Global Health Facts)



According to the CIA World Factbook, Gaza has 29% or

³ https://www.youtube.com/watch?v=A_fp6mNSK8#t=30

104.4 square km of arable land in addition to agricultural and vacant land as can be clearly seen in the picture of farm land and the Google satellite picture.

Despite the hostilities and despite the fact that the Kerem Shalom crossing was targeted by mortars and rockets throughout the war, 959 tons of medicine and medical supplies and 5,359 trucks carrying goods were supplied from Israel through the crossing as reported by the Office of the Coordinator of Government Activities in the Territories (COGAT).

The targets struck by the IDF included 1,814 linked to rocket firing, 109 weapons depots, 85 weapon-making facilities and 312 houses that served military purposes as command and control centers or from which missiles were fired. NATO too, obviously regards a house used for a military purpose as a legitimate target as is evident from the HRW report, mentioned elsewhere in this document, about a NATO laser-guided missile that killed five members of the Jfara family including a nine-year-old girl in a house that was used as a “major command and control node”.

In addition, as mentioned by President Obama above, the destruction of Hamas attack tunnels was a central goal of the operation.

2. INCITEMENT IN OFFICIAL MEDIA, MOSQUES AND SCHOOLS

I understand that as an inchoate crime, even if genocide does not actually result, incitement is nevertheless a crime in terms of article 25 (3) of the Rome Statute of the ICC, that falls under your mandate and I therefore offer the following observations which I trust you will find helpful.

Indoctrination of children

It is heart breaking to see children being indoctrinated to hate the infidel, especially Jews whom they are taught to believe are descended from apes and pigs⁴. How can anyone who has been taught to hate from the age of three, as this beautiful child, Basmalla, even contemplate living in peaceful coexistence with neighbors they are taught to hate and despise?



- On January 29, 2013 on official PA TV Dr. Jihad Al-Batsh, Vice President of Al-Quds University in Gaza said that President Yasser Arafat used to call young children 'the important ammunition, R.P.G. kids' (i.e., rocket projected grenade) and the 'rock[-throwing] generals.'
- On May 14, 2014 a young boy recites: "Zion is Satan with a tail" on official PA Authority TV,
- On Hamas Al-Aqsa TV May 2, 2014TV a giant, cuddly bee teaches children to "shoot Jews" and "smash them"
- On April 9, 2014 a Prisoner's son sings on PA TV: "Dad gave me a rifle and a machine gun as a gift... Defeat America and Israel"
- On March 22, 2013 a girl recites "Jews are Allah's enemies, the sons of pigs" on official PA TV.

⁴ <https://www.youtube.com/watch?v=4QSCaeuLIVY&feature=youtu.be>



The current mufti of Jerusalem on official PA TV



Muhammad Hussein, the Mufti of Jerusalem, the PA's highest religious authority is appointed by PA Chairman Mahmoud Abbas. On official PA TV on January 9, 2012 the moderator set the tone by declaring: "Our war with the descendants of the apes and pigs (i.e., Jews) is a war of religion. The mufti's contribution confirmed that the destiny of Muslims is to kill Jews. "The Hour [of Resurrection] will not come until you fight the Jews. The Jew will hide behind stones or trees. Then the stones or trees will call: 'Oh Muslim, servant of Allah, there is a Jew behind me, come and kill him.'"

EVEN PRESIDENT ABBAS IS GUILTY OF INCITEMENT

PA Chairman Mahmoud Abbas personally incites to genocide by publicly praising murderers of unarmed civilians including babes and children and by naming

schools, streets, sporting events, summer camps and ceremonies after terrorists.

By emulating them male recruits are not only assured of the heavenly 72 virgins if killed in the action, they achieve glory. And since Israel does not exact the death penalty (unlike the PA and Hamas) if they are jailed, their dependants will be looked after by receiving monthly payments that can amount to approximately seven times the minimum wage in the PA. The sliding scale encourages the more serious crimes. Longer prison sentences enjoy higher salaries; \$400 per month for sentences up to three years, \$560 between three and five years, \$1,690 for 10 to 15 years and almost \$2,000 per month for sentences between 15 and 20 years.

On March 3, 2009 Ma'an reported that members of the PLO were rewarded by President Abbas who directed that an extra \$190 be added to their stipends that month adding that each PLO-affiliated prisoner receives 1,000 shekels per month, plus an extra 300 shekels if they are married, and an extra 50 shekels for each child.

Included among the terrorists Abbas named as heroes to be emulated in a speech commemorating the 47th year since the foundation of Fatah are:

- Haj Muhammad Amin Al-Husseini, Grand Mufti of Jerusalem during the British Mandate who met with Hitler and actively cooperated with him during WW2 including the recruitment of Muslims for the Nazi army.
- George Habas founder of the terror group Popular Front for the Liberation of Palestine (PLFP) which has taken credit for many terrorist attacks.
- Abu Jihad (Khalil Al-Waziir) who planned many deadly terror attacks including the hijacking of a bus and killing 37 civilians, 12 of them children.
- Ahmed Yassin founder of the terrorist organization Hamas who was responsible for the cold-blooded murder of hundreds of Israeli civilians.

In March 2013 President Abbas sent his Secretary General, Tayeb Abd Al-Rahim to represent him in honoring the murderer Issa Abd Rabbo in his parents' home. Rabbo had killed two uninvolved hikers and on stage at a show that same week, the mother said: " When he had carried out the killing of the two Israelis, he brought his weapon and came to me.. Praise Allah, I am proud. I wish I had another 10 like him. I have no regrets. [PA TV (Fatah), June, 4, 2012]

Monuments to terrorists

As Itamar Marcus of PMW writes in his document "From Terrorists to Role Models: The Palestinian Authority's Institutionalization of Incitement"⁵ "Attaching the name of a terrorist to schools, streets and sports stadiums has a lasting and reinforcing effect on Palestinian society, because the message supporting murder is continuous. The Yahya Ayyash Street, a main street in Ramallah is used by hundreds daily who receive the message that the terror which targeted and killed more than 1,000 Israeli civilians is worthy of honor. Marcus lists 20 schools and more than 20 other permanent structures named after terrorists in the Palestinian Authority, as reported in the Palestinian media.

5

<http://palwatch.org/STORAGE/special%20reports/PA%20honors%20terrorists%20Final%20Eng.pdf>

3. CIVILIAN CASUALTIES and PROPORTIONALITY

It is not claimed that because NATO or others perform certain actions Israel is entitled to do the same. Rather the intent is to show that even with the noblest intentions collateral damage is unavoidable in a war. And it is only in this CONTEXT that Israel's actions including human errors can be judged

According to an HRW report dated August 6, 2009

"Violations of the laws of war are not measured in the number of civilian casualties, but whether each side is taking all feasible precautions to minimize civilian loss."

Is NATO to be impugned because it suffered zero casualties compared with the thousands of combatants and civilians killed by its forces in Kosovo and Libya? Of course not.

Is Israel condemned because it suffered fewer casualties than the Palestinians? Unfortunately yes even though Israel's provision of shelters for its population and developing the Iron Dome minimized the number of casualties it suffered.

Without the above defensive measures the Israeli casualty list would have been much higher than the death of 66 soldiers, 6 civilians (including one child and one Thai civilian) and the wounding of 469 soldiers and 261 Israeli civilians as well as 581 who were treated for shock and nine people killed in three terrorist attacks in Israel.

By contrast Hamas VIPS took refuge in the huge complex of tunnels but did not allow ordinary Gazans to do so. Had they allowed, let alone encouraged, the use of tunnels as shelters the Palestinian casualty figure would of course have been very much lower particularly in view of the advance warnings the IDF gave of pending attacks by telephone, SMS and knocking on roofs. The often made claims that there was no place to which residents could take refuge ignore the practical availability of using the tunnels for this purpose as was done in London during the "blitz" and shown in the photo.



Reliability of statistics from Gaza

The UN NGO Protection Cluster framework that operated during the 2014 Gaza conflict is the main source of information on which the UN relies. UN GA document A/HRC/27/NGO/86 dated 28 August 2014 (reproduced in full in appendix A) contained a written statement submitted by the Amuta for NGO Responsibility from which the following has been extracted.

"The details regarding civilian casualties, including the questions of military necessity and proportionality in complex urban environments such as Gaza, are central to judgments regarding potential human rights violations and international legal requirements related to LOAC and IHL. In this context, OCHA's statements and statistics are frequently cited as authoritative in media

accounts and by policy makers, including UN officials such as the Secretary General. As a result, major errors in these publications have significant consequences.

Within this framework, a number of NGOs were designated by OCHA to provide data on civilian casualties in Gaza. These NGOs include B'Tselem (based in Israel), Al-Mezan Center for Human Rights (based in Gaza), and the Palestinian Center for Human Rights (PCHR — also based in Gaza).

"..the NGOs in OCHA's "Protection Cluster" as well as OCHA itself are largely dependent on the Palestinian Ministry of Health in Gaza, which is under the control of Hamas. As a result, any claims to independent analysis are highly problematic."

It is well known that many miscarriages of justice have been recorded due to the type of eye-witness testimony on which these organizations rely. In 2011 the New Jersey Supreme Court issued new rules because of a "troubling lack of reliability in eyewitness identifications and the court's chief justice wrote a 134-page decision that the test for reliability of eyewitness testimony as set out by the US Supreme Court should be revised.

In a paper "The reliability of eyewitness reports: the effect of accurate and inaccurate information on memory and bias" Jennifer B. Scheer wrote "A considerable amount of research has established that exposure to leading or misleading suggestions can dramatically influence the accuracy of eyewitness reports.

http://groups.colgate.edu/cjs/student_papers/2002/JScheer.pdf

B'Tselem, one of the main contributors of "evidence", not only relies on post-facto eye-witness accounts, it states that it submits mainly "evidence" gained from telephone conversations. The following statement appears on its web site.

"With the current military campaign ongoing, B'Tselem is taking testimony from Gaza residents, mainly by telephone."

I am confident that your commission will pay the most serious attention to these defects in the methodology used in gathering the evidence presented to you. Moreover, in relying on testimony taken mainly by telephone, B'Tselem purports to be able to distinguish not only between combatants and civilians but also between attacks carried out by state agents and attacks carried out by independent organizations notwithstanding the extraordinarily complex situation in the West Bank and Gaza. B'Tselem openly declares its bias by stating "As a rule, Palestinians in the West Bank and the Gaza Strip are classified as civilians, in part because Palestinian combat there is not carried out by an organized army of a sovereign state." The absurdity of this attitude is plain. It would confer PROTECTED civilian status to the January attackers of Charlie Hebdo magazine in Paris.

In the faulty information given by B'Tselem to the Goldstone mission only persons who were participating directly in hostilities at the time they were killed were

regarded as combatants. Having been criticized for this inadequate definition,⁶ in May 2012 B'Tselem decided to stop addressing the question of participation in combat, with respect to Palestinians killed in the West Bank and decided that, with regard to all Palestinians killed since the end of Operation Cast Lead, the notion of "participation in hostilities" will no longer be addressed; instead, a short factual description of the circumstances of the death will be provided.

However, since Operation Cast Lead, which began in December 2008, B'Tselem has based its determination on the new approach of the International Committee of the Red Cross regarding the direct participation of civilians in hostilities. In the new definition B'Tselem exempts from classification as combatants persons who continuously accompany or support an organized armed group but whose function does not involve direct participation in hostilities including trainers who contribute to the general war effort as long as they do not directly participate in hostilities. They are not regarded as legitimate objects of attack. By B'Tselem's standards a householder who permits Hamas to carry out operations from his house or to create an entrance to a tunnel in the house is not a legitimate target.

B'Tselem confirms its bias by stating

"Wherever there is a doubt regarding the actions of a person, the doubt works in the individual's favor, and it is forbidden to target the person for attack."

Sadly, many otherwise intelligent people are unable to put aside preconceived beliefs even when faced with irrefutable facts. This phenomenon of persevering with established opinions is not uncommon. In a paper published in "Psychological Science in the Public Interest" Stephan Lewandowsky, a psychologist at the University of Western Australia says "You have to be careful when you correct misinformation that you don't inadvertently strengthen it..If the issues go to the heart of people's deeply held world views, they become more entrenched in their opinions if you try to update their thinking."

That it is impossible to avoid civilian casualties, especially in the Gaza situation, is borne out by a study published in the June 2014 issue of the American Journal of Public Health in which the several authors state:

"During the 20th century, 190 million deaths could be directly and indirectly related to war — more than in the previous 4 centuries..The proportion of civilian deaths and the methods for classifying deaths as civilian are debated, but civilian war deaths constitute 85% to 90% of casualties caused by war, with about 10 civilians dying for every combatant killed in battle".

And with regard to proportionality, the principle is codified in Protocol I, Art. 51 (Protection of the civilian population), section 5. By way of example an attack is considered as indiscriminate if it may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which

⁶ http://www.maurice-ostroff.org/?page_id=1303

would be excessive in relation to the concrete and direct military advantage anticipated. The all important question is **who is capable of judging** the subjective "Excessive in relation to the concrete and direct military advantage anticipated". And who can estimate with any degree of certainty the anticipated military advantage especially when the decision must be made immediately in the fog of war?

However the ICRC Commentary on the Additional Protocols, p. 626, para. 1980 states:

"The idea has also been put forward that even if they are very high, civilian losses and damages may be justified if the military advantage at stake is of great importance".

The experiences of NATO demonstrate unequivocally that despite the best intentions and laudable precautions it is impossible to avoid serious civilian damage even in the most justifiable war.

A May 16, 2012 Time article titled "How Many Innocent Civilians Did NATO Kill in Libya?" acknowledges that NATO took significant measures to limit civilian casualties in Libya. Yet, despite these precautions a Human Rights Watch (HRW) report titled "Unacknowledged Deaths" details eight specific incidents where at least 72 Libyan civilians died as the result of NATO's bombing campaign. A third of the victims were children under 18. HRW researchers found the remnants of a laser-guided missile in the ruins of the Jfara family compound, where five members of the family, including a nine-year-old girl, were killed when bombs fell on Aug. 30. NATO claims it struck a "**major command and control node**" used by Gaddafi's forces.

And in Kosovo too, according to a HRW report, minimizing civilian casualties was a declared NATO concern. Targets were looked at in terms of their military significance in relation to the collateral damage or the unintended consequences that might be there. General Shelton said on April 14. "every precaution is made...so that collateral damage is avoided" and according to Lt. Gen. Michael Short, "collateral damage drove us to an extraordinary degree. General Clark committed hours of his day dealing with the allies on issues of collateral damage."

Nevertheless it was reported that thousands of civilians were killed and more than 6,000 seriously injured with **children making up 30% of all casualties** as well as 40% of the total number injured. In addition, approximately 300,000 children suffered severe psychological traumas and will require continued medical treatment.

Significantly, the legitimate targets included military-industrial infrastructure, news media, and other targets considered to be of a strategic nature. More than 1,000 combat aircraft and 206 helicopters were engaged in over 35,000 combat missions in which more than 20,000 guided weapons were launched and over 79,000 tons of explosives were dropped, including 35,450 cluster bombs, thermo-visual and graphite bombs.

On May 20,1999 NATO directly hit the "Dragisa Misovic" hospital completely destroying the neurological ward, the gynecological ward and the children's ward for

lung diseases. NATO admitted that one of the laser-guided bombs overshot its target by about 1,500 feet.

The Chinese Embassy Building was hit by mistake. Half of the building was destroyed, four Chinese citizens were killed and 20 were injured. If NATO cannot avoid this type of mistake the question **MUST BE ASKED WHY A HOSTILE WORLD WON'T ACCEPT THAT, IN THE HEAT OF BATTLE, THERE ARE OCCASIONS WHEN ISRAEL TOO, MAKES GENUINE MISTAKES.**

The commission cannot ignore informed opinion.

Sitting in our comfortable air conditioned rooms it is presumptuous and even impertinent to presume to be able to understand the life and death decisions and actions of a soldier in the heat of a bloody battle. Consequently the views reported by the highest-ranking U.S. military officer cannot be ignored.

On November 6, 2014 Reuters reported that the chairman of the US Joint Chiefs of Staff, General Martin Dempsey, was asked about the ethical implications of Israel's handling of the Gaza war. In response he said that Israel went to "extraordinary lengths" to limit civilian casualties in the recent war in Gaza and that the Pentagon had sent a team to see what lessons could be learned from the operation. Contrary to the inexpert claims by HRW accusing Israel of committing war crimes by attacking three U.N.-run schools, General Dempsey said "I actually do think that Israel went to extraordinary lengths to limit collateral damage and civilian casualties. In this kind of conflict, where you are held to a standard that your enemy is not held to, you're going to be criticized for civilian casualties," He added that Hamas had turned Gaza into "very nearly a subterranean society" with tunneling throughout the coastal enclave. That caused the IDF some significant challenges.

But they did some extraordinary things to try and limit civilian casualties, to include ... making it known that they were going to destroy a particular structure.. in addition to dropping warning leaflets, developed a technique called "roof-knocking" to advise residents to leave sites they planned to strike.

Three months ago the Pentagon sent a "lessons-learned team" of senior officers and non-commissioned officers to work with the IDF to see what could be learned from the Gaza operation, "to include the measures they took to prevent civilian casualties and what they did with tunneling. The general added

"The IDF is not interested in creating civilian casualties. They're interested in stopping the shooting of rockets and missiles out of the Gaza Strip and into Israel."

Nor can the commission ignore the considered evaluation by a man who has been there and whose views coincide with those of General Dempsey. Retired British army Colonel Richard Kemp CBE completed 14 operational tours of duty around the globe. He was Commander of British Forces in Afghanistan and has experience commanding front-line troops in fighting terrorism and insurgency in Iraq, the Balkans, South Asia and Northern Ireland. He was also head of the anti terrorism team at the Joint Intelligence Committee of the British Prime Minister's Office.

Colonel Kemp says categorically that that Israel's army is more careful than the US and UK forces. The ratio of civilian to military casualties in Operation Protective Edge was one-fourth of the average in warfare around the world. He points out that there was approximately one civilian casualty for every terrorist killed by the IDF, whereas the average in the world is four civilians for every combatant, and that, when taking into consideration Hamas's use of human shields, this shows how careful the IDF is.

“No army in the world acts with as much discretion and great care as the IDF in order to minimize damage. The US and the UK are careful, but not as much as Israel. During the whole operation Israel was very careful under all the limitations of international law. Even if there were exceptions, there were very few and in cases when there was no possibility, and there was no intention to hurt civilians.”

4. CRUEL WAR CRIMES BY GAZANS ON GAZANS

What the ISIS, ISIL or IS look-alikes have in common are intolerance of any religion other than Islam, fury at any hint of criticism or lack of respect for their religion, establishment of a caliphate, imposition of Shaaria law and most reprehensible of all, unbelievable cruelty.



Corpse being dragged
dragged through
streets of Gaza



Gazans about to be executed

The pictures above show Hamas behavior closely matching that of ISIL. Recently, having executed over 30 Gazans a few weeks earlier, Hamas proudly showed films of the extra-judicial execution of a further 25 fellow Palestinians, including two women. In November 2012 the Guardian reported that masked Hamas gunmen publicly shot dead six suspected collaborators. A sixth corpse was tied to a motorcycle and dragged through the streets.

According to Financial Times (ft.com) no less an authority than Palestinian Authority (PA) President Mahmoud Abbas told the press on September 6, 2014 that Hamas had killed 120 Fatah members who broke the curfew (imposed to prevent people from leaving their homes on receiving warnings from the Israelis of an imminent attack). Unsurprisingly very few media outlets reported this revealing statement.

During operation Protective Edge, Jordanian journalist Mudar Zahran ⁷ decided to speak with Gazans themselves to hear what they had to say. Unlike other journalists who need to rely on local interpreters whose interpretations are influenced by fear of Hamas, Zahranj enjoyed the advantage of being able to communicate directly in Arabic on a one to one basis away from the influence of big brother. His complete article is reproduced in appendix B). Below are some extracts

Journalists threatened

A renowned Gazan academic said that as soon as someone talked to a Western journalist he was accused of "communicating with the Mossad". [This has

⁷ Zahran is a prominent Jordanian opposition figure and writer. Described by both Western and Arab media sources as "The leader of the Palestinians in Jordan." He was an avid civil rights advocate critical of the Hashemite regime's discriminatory policies against the Palestinians. Zahran has two master's degrees from Southern New Hampshire University, USA, and continued his PhD degree in the UK.

been confirmed by several brave journalists after they left Gaza.⁸ Furthermore The Foreign Press Association issued a protest about blatant, incessant, forceful and unorthodox intimidation of journalists in the Gaza Strip by Hamas].

Hamas kills Palestinians

"Hamas terrorizes and kills us just like Daesh [ISIS] terrorizes kills Iraqis. Hamas is a dictatorship that kills us. The Gazans you see praising Hamas on TV are either Hamas members or too afraid to speak against Hamas. Few foreign [Western] journalists were probably able to report what Gazans think of Hamas."

M., a journalist, said he does not believe any of the people Hamas killed in the last weeks were Israeli spies. Hamas has killed many people for criticizing it, and claimed they were traitors working for Israel during the war."

S., a Gazan political activist said Hamas killed one of its own leaders, Ayman Taha, and blamed Israel. Hamas imprisoned and tortured him because he was critical of its radical policies. Eye-witnesses said they saw Hamas militants bring him alive into the yard of Shifa hospital in Gaza and shoot him dead.

A Fatah member said "If Hamas does not like you for any reason, all they have to do now is claim you are a Mossad agent and kill you." Even before the Israeli operation began, Hamas rounded up 400 Fatah members and other political-opposition figures and beheaded a man for opposing its views on the 22nd day of the war. On its Facebook page it claimed he was caught sending information to Israel.

Israeli warnings

S. a medical worker, said the Israeli army sends warnings to evacuate buildings before an attack. They either call or send a text message. Sometimes they call several times to make sure everyone has been evacuated. Hamas's strict policy, though, was not to allow us to evacuate. Many people got killed, locked inside their homes by Hamas militants.

Firing from homes and human shields

Gazan journalist, D., said Hamas would fire from the balconies of homes and try to drag the Israelis into door-to-door battles and street-to-street fights -- a death sentence for all the civilians here. They would fire rockets and then run away quickly, leaving us to face Israeli bombs for what they did.

T., a former Hamas Ministry officer said: "Hamas fires from civilian areas for a good reason

F., a physician, said:"I wish Israel never existed, but as it does not seem to be going away, I would rather be working in Israel like I used to before the first

⁸ <http://blogs.timesofisrael.com/how-the-media-misled-the-un-secretary-general-and-the-world/>

Intifada, not fighting it." The world should consider putting all the Hamas leaders on trial for crimes against the Gazan people. **Palestinian civilians** were killed while Hamas's terrorists remained alive, hiding in their underground bunkers and tunnels."

K said "on July 22: "When people stopped listening to Hamas orders not to evacuate and began leaving their homes anyway, Hamas imposed a curfew: anyone walking out in the street was shot without being asked any questions. That way Hamas made sure people had to stay in their homes even if they were about to get bombed. God will ask Hamas on judgment day for those killers' blood."

"Hamas held the entire Gazan population as a human shield." "After all it is our children who are dying, not the children of Hamas's leaders". "When Hamas locks people inside homes about to be bombed, when it kills people protesting against it and when it executes alleged traitors without even a trial, these are war crimes."

M., a Gazan TV producer, stated: "Of course I am against Israel and I want it out of Gaza and out of the West Bank, but I still believe Hamas is more of a threat to the Palestinian people. Hamas took over Gaza by killing us [Palestinians] and throwing our young men from high buildings. That is what Hamas is about: murder and power. Hamas is also delusional. Its leaders refused the Egyptian cease-fire proposal, they got hit hard by the Israelis, and then when the war stopped, they declared victory."

The media has exerted a huge pressure on Israel for every dead Gazan. In that sense, Hamas's tactic has worked, and we have seen more Western tolerance of Hamas, especially in Europe.

Stealing humanitarian aid

A first-aid volunteer, E., said that Hamas militants had confiscated 150 truckloads of humanitarian supplies the day before. He said the supplies were donated by charities in the West Bank and that their delivery was facilitated by the IDF. Another aid worker, A., confirmed that Hamas steals the humanitarian supplies given to Gaza. "They take most of it, sell it to us, and just give us the stuff they do not want."

A Gazan mosque's imam said that the most precious aid item Hamas stole was water. "Gazans are thirsty and Hamas is stealing the water bottles provided to us for free and selling them at 20 Israeli shekels [approximately \$5] for the big bottle and 10 Israeli shekels for the small one."

Even the well-known pro-Palestinian journalist Amira Hass felt compelled to write in Haaretz that the executions appeared to be a warning to the Gazan public to be careful in anything it says and does that might upset Hamas. Similar views have been expressed by journalists after they returned from Gaza to the comparative safety of their home countries. See <http://blogs.timesofisrael.com/how-the-media-misled-the-un-secretary-general-and-the-world/>

In his September 2014 speech to the UN President Obama said emphatically

".. the situation in Iraq and Syria and Libya should cure anybody of the illusion that the Arab-Israeli conflict is the main source of problems in the region. For far too long, that's been used as an excuse to distract people from problems at home".

As long ago as February 2006 in a report to the US Senate Select Committee on Intelligence, Dale L. Watson, Executive Assistant Director of the FBI Counterterrorism Division included Hamas and Hezbollah among organizations that actively support terrorist-related activities in the United States.

Although all jihadist organizations are not identical, they do share common ideologies that are inimical to the Western way of life and it is perilous to underestimate the existential threat they all pose to the US in particular and to the free world in general..

Like ISIL Hamas seeks a global caliphate, as confirmed by no less an authority than Hamas supreme leader Khaled Meshal in the following excerpts from his speech in the Al-Murabit Mosque, Damascus on February 3, 2006

"We say this to the West..By Allah you will be defeated... Tomorrow the Nation of Islam will sit at the Throne of the World and the West will be full of remorse when it is too late..It will regain the leadership of the world...Brothers and sister, there is confusion in the Western world, and in the American administration." (Translation by MEMRI)

Meshal's words were authoritatively echoed by Hamas interior minister, Fathi Hammad on Hamas's Al-Aqsa TV on November 13, 2013 when he said:

"We shall liberate our Al-Aqsa Mosque, and our cities and villages, as a prelude to the establishment of the future Islamic Caliphate ... we are at the threshold of a global Islamic civilization era

Enforcing sharia law is common to Hamas and ISIL. On March 27, 2014 Gulf News reported on Hamas' new Islamist law introducing lashings, chopping of limbs and execution. It stipulates a minimum of 20 lashes for a minor offense, with the number of lashes increasing with the seriousness of the offense. A minimum of 80 lashes is to be imposed in criminal cases. The law also widens the use of the death penalty as per Sharia. Articles No 289, and 290 of the proposed law stipulate the cutting off of the hand of a thief and a minimum of seven years in jail in case the criminal repeats his crime.

Human Shields

The use by Hamas of human shields has been widely reported and even acknowledged by Palestinian leaders who have been filmed exhorting people to remain in buildings and ignore warnings of impending attacks. The discovery of a Hamas "urban warfare" manual by IDF forces proves beyond doubt that this was intentional and preplanned. The manual explains that the presence of civilians causes major problems for advancing Israeli troops and it discusses the benefits for Hamas when civilian homes are destroyed by increasing the hate factor. See appendix E

5. THE GAZA BLOCKADE IN CONTEXT

At the outset it is relevant to correct three firmly held misconceptions.

Firstly, the blockade of Gaza is not unique. While the cold war ended years ago, we seem to have forgotten that the blockade of Cuba by President John F. Kennedy in 1962 is still in effect. Only very recently has it come under discussion

Secondly Gaza is, and has been, blockaded not only by Israel but also by Egypt under Mubarak, Morsi and now Sisi

Thirdly the rocket fire did not commence in order to end the blockade. There was no blockade before Hamas attacked Israel. The fact is that Israel left Gaza in 2005 and the blockade was not instituted until 2007 when Hamas forcibly took over the government of Gaza in a bloody battle with Fatah.

While critical of some of the actions by the IDF, the Palmer Report found both the naval blockade and its enforcement to be legal emphasizing that all assistance to Gaza should be transferred only through the designated land crossings. The panel also found that Israel had legitimate security concerns regarding violence by Hamas and that weapons trafficking to Gaza permitted Israel to enforce a naval blockade.

The attempts by some politicians and journalists to justify the Hamas rocket attacks as appropriate reprisals for the ongoing blockade and their demand that it be lifted before even negotiating a ceasefire emphasizes the VITAL IMPORTANCE of viewing the blockade in its CONTEXT.

It will surprise many pundits who advocate a unilateral end to the blockade to recall that when Israel left Gaza, the intention was to improve the lives and economy of all Palestinians including Gazans by cooperation with Israel. The blockade wasn't considered until two years later when Hamas gained control of Gaza in a cruel fratricidal battle against Fatah and Israel's friendly hand was reciprocated with increased terror and rockets.

In 2005, then PM Ariel Sharon publicly emphasized in his disengagement plan that Israel was committed to the peace process and the purpose of the plan was to lead to a better security, political, economic and demographic situation. A blockade was furthest from his mind.

In March 2007, Hamas and Fatah formed a Palestinian authority national unity government headed by Ismail Haniya, but in June Hamas took control of Gaza in the the cruel battle referred to above. According to a Human Rights Watch report of June 13, 2007, armed Palestinian groups committed grave crimes, executing captives, attacking a hospital and violating the most fundamental humanitarian principles, in some cases amounting to war crimes.

"Both Fatah and Hamas military forces summarily executed captives, killed people not involved in hostilities and engaged in gun battles with one another inside and near

Palestinian hospitals. Armed Palestinians from Islamic Jihad and the Fatah-affiliated Al-Aqsa Martyrs Brigade used a vehicle with "TV" insignia to attack an Israeli military position on the border with Gaza".

Muhammad Swairki, a cook for Abbas's presidential guard was executed by Hamas throwing him to his death, with his hands and legs tied, from a 15-story apartment building. Later that night, Fatah military forces shot and captured Muhammad al-Ra'fati, a Hamas supporter and mosque preacher, and threw him from a Gaza City high-rise apartment building. On Monday, Hamas military forces attacked the home in Beit Lahiya of Jamal Abu al-Jadiyan, a senior Fatah official, captured him, and executed him on the street with multiple gunshots. On Tuesday, there were reports of additional killings of individuals not involved in hostilities".

According to the Guardian of June 15, 2007

"In scenes reminiscent of Baghdad after the fall of Saddam Hussein, hundreds of people swarmed through the unoccupied house of Fatah strongman Mohammed Dahlan, after his neighborhood fell to Hamas, stripping everything, including windows, doors and flowerpots".

The following extracts from Sharon's aforementioned disengagement plan paints a picture of good intentions with sadly negative unintended consequences. Referring to the evacuation of an area in Northern Samaria (Ganim, Kadim, Sa-Nur and Homesh), which few remember, he said this would enable territorial contiguity for Palestinians in Northern Samaria and that Israel would assist the international community in improving the transportation infrastructure in the West Bank to facilitate contiguity of Palestinian transportation, normal life and Palestinian economic and commercial activity in the West Bank.

In Gaza, he said, Israel would transfer industrial, commercial and agricultural facilities to a third, international party for the benefit of the Palestinian population that is not involved in terror. (Sharon's complete historical speech, reproduced in appendix D, is an integral part of this memorandum)

Regarding International Passage he said that to improve the situation, the hours of operation would be extended. Infrastructure relating to water, electricity, sewage and telecommunications were left in place. And most importantly, the Erez industrial zone was to be transferred to the responsibility of a Palestinian or international party and Israel would explore with Egypt, the possibility of establishing a joint industrial zone on the border of the Gaza Strip, Egypt and Israel.

Because too few opinion makers know about the Erez and other beneficial joint industrial enterprises that then existed and were offered to Gaza but were wantonly destroyed, it is worth describing them. Unfortunately very little is known, even by experts on Palestine, about the many cooperative efforts established by Israel that were thwarted by the Palestinian uprising, quite apart from those in the pipeline.

Before the second intifada, Israel and the Palestinian Authority cooperated in creating employment opportunities along the "seam-line" between Israel, the West Bank and Gaza. A successful industrial zone was created at Erez which grew to employ about 5,000 workers in some 200 businesses half of which were Palestinian-owned. They

produced everything from plastics to car parts and continued to do so even as the Israeli-Palestinian conflict raged. This was part of a larger Gaza Industrial Estate (GIE), slated to provide up to 50,000 jobs. In addition, a joint industrial zone was planned south of Tulkarm intended to provide jobs for more than 5,000 Palestinians. Additional areas were planned for Jenin and the Kerem Shalom area near Rafah in Gaza which were not given the chance to be realized



The Erez Industrial Park Photos by courtesy of www.gushkatif.net

All these positive efforts were unfortunately thwarted. The GIE zone became the target of deadly Palestinian attacks leading to closure of the enterprise. Hamas and the Fatah Al Aqsa Martyrs Brigades claimed joint responsibility. The tragedy was encapsulated by one of the Palestinian factory owners, 40-year-old Ashur Salha,. "It's simply stupid," he told Haaretz, "Whoever ordered the bombing must have known that 30,000 mouths depend on our employment here. After all, this hurts us [the Palestinians] much more than it does the Israelis."



*One of the destroyed greenhouses
Photo by courtesy of
http://www.zionism-israel.com/ezine/gaza_green.htm*

Sadly, the golden opportunity for a new prosperous Gaza created by Israel's disengagement from the strip was rejected. As soon as Israel left Gaza, Gazan gunmen wantonly destroyed thousands of greenhouses and other projects left behind by the Jewish settlers; projects that could have provided income for over 4,500 families. Before the Palestinian uprising, up to 100,000 Palestinians worked in Israel, providing an economic lifeline. Palestinian trucks moved freely on Israel's roads facilitating the export of thousands of tons of agricultural products from Gaza to Jordan and beyond.

Even during times of violence about 5,000 Palestinians continued to work in Israel, and in the settlements that have since been evacuated. Similarly Palestinian businessmen traveled freely and conducted their affairs in Israel.

Contrary to conventional wisdom, despite the blockade, it is a gross exaggeration to describe Gaza as being under siege by Israel. Gaza shares borders not only with Israel, but with Egypt as well. Between 1948 and 1967 there was no access between Israel and Gaza whereas now all goods are allowed to enter from Israel, except for weapons and a short list of dual-use items which can be and have been exploited by terrorists for violent purposes. And also contrary to conventional wisdom, there are no limits imposed by Israel on how much Gaza can export.

In the first five months of 2014, over 18,000 trucks carrying nearly 228,000 tons of supplies entered Gaza including construction materials and over 4,680 trucks carrying 181,000 tons of cement, wood, gravel, iron and other building supplies much of which was diverted to construction of attack tunnels.

If peace is to be achieved by negotiation, the question must be asked how this can be done while the Hamas charter declares there is absolutely no room for peaceful negotiation.

For more see <http://www.jpost.com/Blogs/2nd-Thoughts/Why-is-Gaza-blockaded-372949>

6. PALESTINIAN CRIMES ACCORDING TO HUMAN RIGHTS WATCH

In addition to the cruel crimes described in part 4 and incitement to genocide as described in part 2 hereof, the following extracts from a Human Rights Watch report dated August 9, 2009, highlight a few important considerations.

The double war crime of firing missiles from civilian areas into civilian areas. Since 2001, Hamas and other Palestinian armed groups in Gaza have fired thousands of rockets deliberately or indiscriminately at civilian areas in Israel.

It [Hamas] has taken no apparent action to prosecute or otherwise hold accountable Hamas forces or other Palestinian armed groups for launching unlawful rocket attacks against Israeli civilian areas.

The absence of Israeli military forces in the areas struck by the rockets, as well as statements from the leaders of Hamas and other armed groups, indicate that many of these attacks **are deliberately intended to strike Israeli civilians and civilian structures. Individuals who willfully authorize or carry out deliberate or indiscriminate attacks against civilians are committing war crimes.**

Civilian structures damaged in recent attacks include a kindergarten, a synagogue and private homes. An Israeli early warning siren system, which gives civilians roughly 10 to 45 seconds to find cover in prepared shelters, depending on their distance from the launch site in Gaza, has undoubtedly limited the number of civilian casualties.

However, the repeated attacks have, over months and even years, taken a psychological toll on the population in areas close to Gaza. **The laws of war prohibit attacks the primary purpose of which is to spread terror among the civilian population.** Because of the rocket attacks, thousands of people have moved away from frequently targeted areas such as Sderot municipality.

Palestinians killed by Hamas rockets

The rocket attacks have also placed civilians in Gaza at risk. The unpredictable nature of the crude rockets has meant that rockets have struck areas not only inside Israel but also inside Gaza; on December 26 a rocket hit a house in Beit Lahiya, killing two Palestinian girls, ages 5 and 12. In addition, Hamas and other Palestinian armed groups **have frequently violated the laws of war by firing rockets from within populated areas.** In doing so, they failed to take all feasible precautions to avoid placing military targets within densely populated areas, such as by removing civilians under their control from the vicinity of military targets, and protecting civilians from the danger resulting from military operations.

The Israeli government said the military offensive “Operation Cast Lead,” in Gaza that began on December 27, 2008, was intended to destroy the ability of Palestinian armed groups in Gaza to fire rockets into Israel. After major military operations ended on January 18, 2009, Palestinian armed groups in Gaza continued to fire rockets into Israel, although in gradually reduced numbers.

Statements by leaders of Hamas and other armed groups, media reports and independent analysis by nongovernmental organizations, and Human Rights Watch's interviews with residents of Gaza, suggest that Hamas can control the ability of other armed groups to fire rockets at Israel. Hamas has on several occasions effectively prevented other armed groups from firing rockets.

In an interview on May 5, 2009, Hamas leader Khaled Meshal appeared to acknowledge that Hamas rocket attacks intentionally targeted Israeli civilians. In the course of describing why Hamas had decided to stop firing rockets for the time being, Meshal said:

Even assuming the rocket attacks were intended as reprisals for Israeli attacks that killed and injured civilians, they still are unlawful under the laws of war.

Moreover, a fundamental principle of the laws of war is that they apply to all parties to a conflict regardless of the justifications for going to war. Whether it is Hamas' claims of "the right to resist occupation" or Israel's of the right "to combat terror," the reasons for engaging in armed conflict do not permit a party to ignore its legal obligations in the way it conducts hostilities.

The tonnage and explosive power of weapons used by Israel in Gaza far outweighed those of Hamas. However, these discrepancies do not discount the need to examine violations of laws of war by all sides to a conflict, nor do they justify violations by Hamas.

The purpose of the laws of war is not to create parity between parties to a conflict, or to assess their violations in light of their relevant capacities, but to minimize the harm to the civilian population.

Violations of the laws of war are not measured in the number of civilian casualties, but whether each side is taking all feasible precautions to minimize civilian loss. Using unsophisticated weapons does not justify failure to respect the laws of war, nor does an adversary's use of sophisticated weapons provide a pass to its opponents to ignore those laws. Disparities in military capability, however measured, are irrelevant. The taking of civilian life can be minimized only if both parties recognize their legal obligations to abide by the laws of war however sophisticated the weaponry at their disposal.

The laws of war require parties to a conflict to investigate and take appropriate punitive action against individuals within their control who are implicated in war crimes. **Hamas authorities have failed to take any action against Hamas commanders and fighters responsible for unlawful rocket attacks against Israel.**

Torture

Hamas has reportedly taken violent steps to prevent other armed groups from firing rockets. On March 10, the London-based pan-Arab daily Al-Sharq al-Awsat reported the alleged torture by Hamas police of 10 members of Saraya al-Quds, the armed wing of Islamic Jihad.[3] The paper reported that Hamas police detained the 10 men, from Khan Yunis, and tortured them to coerce them to sign pledges that they would not fire rockets at Israel.

7. CONCLUSION

The strife between Israel and organizations like Hamas and Islamic Jihad is a classic case of asymmetric warfare to which the application of conventional rules of war and international law is understandably problematic. In these circumstances I appreciate the complexities you will encounter in investigating possible war crimes by all the involved parties including the large number of dwellings destroyed by Israel and other serious allegations.

As an Israeli I am distressed by reports of serious misdeeds so completely out of character of the young men in the IDF whom we know intimately as decent, humane and compassionate people. Consequently, if some bad apples have soiled the reputation of the IDF we insist that they be brought to account and we welcome the public statement by Military Advocate-General Maj.-Gen. Danny Efroni that the IDF is investigating itself because of its values, not because of pressures, adding that he has the authority to open an investigation against a general and even the chief-of-staff. Supreme Court justice Uri Shoham concurred adding, "We must defend the independence of the MAG and ensure that he can act without any pressure."

I have not made submissions on these issues as I do not have the facts and I am not privy to the IDF investigations. This submission deals principally with the CONTEXT in which both the IDF and Hamas actions must be judged by your commission.

Incitement

As discussed in part 2 above, the prevalent crime of incitement by Palestinians to hate AND TO GENOCIDE is one of the main obstacles to a peaceful solution to the Israel Arab conflict. It is a serious war crime that demands your attention.

It is unrealistic to expect adults who have been indoctrinated to hate since infancy, to live in peace with neighbors they have been taught to regard as sub-human. This type of incitement is also a serious obstacle to accommodation of the Western world to the terror wrought, not by Islam, but by Islamic extremism.

In so far as impunity means exemption from accountability and punishment, the reference in UN resolution A/HRC/RES/S-21/1 to "avoiding and ending impunity" is of particular relevance. It appears that because various militant organizations are not defined states, their crimes have to a great extent been either ignored or excused. For example the above mentioned serious crime of Palestinian incitement has not been seriously addressed by the UN.

In evaluating events in Gaza one cannot turn a blind eye to their relationship to the recent devastating terror acts and threats of terror in Europe, Africa and even Australia. As long ago as July 10, 2007 a NY Times article reported that no less an authority than current PA President Abbas said:

"Thanks to the support of Hamas, Al Qaeda is entering Gaza"

President Abbas was not exaggerating. In June 2007, the radical salafi/ jihadi groups became active in Gaza and one of these groups was responsible for the killing of 16 Egyptian soldiers in Sinai in August 2012.

According to Mailonline of May 10, 2014, Egypt charged 200 people with conspiring with al-Qaeda and Hamas. The following statement in the same report removes all doubt that the radical ideologies of Hamas, Hezbollah, Iran, ISIS, and al-Qaeda represent a common threat of terror and imposition of a caliphate and sharia law.

"The prosecutor's statement refers to the group as 'the most dangerous terrorist group', and accuses the defendants of receiving **military training in the Palestinian Gaza Strip under the patronage of Hamas**, and of travelling to Syria where they took part in fighting against government forces there before returning to Egypt."

There is every reason to believe Hamas interior minister, Fathi Hammad who said on Hamas's Al-Aqsa TV on November 13, 2013:

"We shall liberate our Al-Aqsa Mosque, and our cities and villages, as a prelude to the establishment of the future Islamic Caliphate.. **we are at the threshold of a global Islamic civilization era**

We are also reminded that Ayatollah Khomeini has kept his promise that Iran would export its revolution to the whole world and it is in this context that one must regard Israel's struggle as being the frontline in the global war on terror

Hamas Funds

When we discuss Hamas in CONTEXT, we are not speaking of a poverty stricken struggling liberation organization. Hamas **is the second-richest terror group in the world** worth \$1 billion as revealed in a November 13, 2014 report by Forbes Israel and AFP.

These video clips are revealing.

<https://www.youtube.com/watch?v=pQNN-arWkrY>

and

<http://www.theblaze.com/stories/2011/07/06/gaza-in-lap-of-luxury-israeli-aid-includes-daily-shipment-of-mercedes-hdts-and-jacuzzis/>

Fatah has accused Hamas of actions similar to those used by IS in stealing \$750,000 in cash from a branch of Bank of Palestine as well as \$700 million from aid directed at Gaza reconstruction and civilian casualties.

But Hamas was democratically elected

Apologists for Hamas refer to the fact that Hamas was democratically elected in the January 2006 Palestinian elections and that in March 2007 a national unity government headed by Prime Minister Ismail Haniyeh was formed. BUT Hamas seized control of Gaza in a bloody battle in June 2007. 18 Palestinians who had escaped from Gaza's main prison compound were executed by Hamas security officials in the first days of the conflict. At least 600 Palestinians died in the fighting

between Hamas and Fatah. HRW estimated several hundred Gazans were "maimed" and tortured, 73 Gazan men accused of "collaborating" had their arms and legs broken.

On November 2, 2002 a 170 page HRW report stated "The people responsible for planning and carrying out suicide bombings that deliberately target civilians are guilty of crimes against humanity and should be brought to justice and in August 2009 an HRW report condemned attacks by Hamas on Israel as war crimes and crimes against humanity by human rights groups.

In August 2007 the group was accused in The Telegraph of torturing, detaining, and firing on unarmed protesters who had objected to policies of the Hamas government.

In 2012 HRW presented a 43 page list of human rights violation committed by Hamas including beatings with metal clubs and rubber hoses, hanging of alleged collaborationists and torture of 102 individuals. Hamas also tortured civil society activists and peaceful protesters.

Reflecting on the captivity of Gilad Shalit, the HRW report described it as "cruel and inhuman". The report also slams Hamas for harassment of people based on so called morality offenses and for media censorship. In a public statement Joe Stork, the deputy Middle East director of HRW claimed,

"after five years of Hamas rule in Gaza, its criminal justice system reeks of injustice, routinely violates detainees' rights and grants impunity to abusive security services."

Defensive wars

There can be no doubt that Israel's wars including Cast Lead and Protective Edge were defensive wars to which the doctrines *jus ad bellum*: (the right to go to war) and *jus in bello* (the right conduct in war) apply as well as *jus post bellum* i.e. conduct in post-war settlement and reconstruction. This last doctrine which should be of greatest concern at present, poses a very difficult ethical problem in view of reports that construction material is being diverted to rebuilding attack tunnels and other violent purposes.

In October, truckloads of cement and steel earmarked for private and public projects started rolling into Gaza under a UN brokered monitoring mechanism which unfortunately has not proved to be very effective. European parliament member Arne Guericke, and other EU officials have voiced concerns over a European court of auditors report alleging that nearly \$14.7 million of the \$560 million pledged to Gaza could end up in Hamas's hands.

Exiled Jordanian politician, Mudar Zahran confirms that Hamas is trying to confiscate construction materials donated by the international community and that aid earmarked for reconstruction is turning up on the Hamas controlled black market, where it is being sold at premium prices.

In summary, since your mandate requires investigation into ALL violations "whether BEFORE, during or after" I look to your commission to contribute towards a just and

equitable solution to the Arab –Israel conflict by thoroughly considering the background and CONTEXT in reporting on

- Crimes committed during the 2007 Gaza battle and subsequent war crimes by Palestinians on Palestinians.
- Incitement by the PA and Hamas to genocide in official media, mosques and schools
- The casus belli and defensive war
- The double crime of firing missiles from populated areas into populated areas
- Civilian casualties and proportionality
- The use of houses and hospitals for military purposes
- Reasons for the Gaza blockade
- Human shields as admitted by Hamas
- Distorted reporting from Gaza and the revelations by journalists after they left Gaza. See <http://blogs.timesofisrael.com/how-the-media-misled-the-un-secretary-general-and-the-world/>
- The unreliability of reported statistics especially in view of GA A/HRC/27/NGO/86 of August 28, 2014
- Discrimination against women and LGBT
- The criminal isolation of Gilad Shalit and refusal to allow even Red Cross visits.
- The diversion of money and materials intended for reconstruction.

APPENDIX A UNGA DOCUMENT

<http://unispal.un.org/UNISPAL.NSF/0/13C28218840CCCAD85257D4D005C7D79>

UNITED
NATIONS

A



General
Assembly

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A/HRC/27/NGO/86
28 August 2014

English only

Human Rights Council
Twenty-seventh session Agenda item 7
Human rights situation in Palestine and other
occupied Arab territories

Written statement* submitted by the Amuta for NGO Responsibility, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 August 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Issues Related to UNOCHA's "Protection Cluster" Regarding Gaza

The NGO Protection Cluster framework that has operated during the 2014 Gaza conflict, like similar "clusters" in other regions, is linked to the United Nations Office for the Coordination of Humanitarian Affairs in the Occupied Palestinian Territory (OCHA-OPT). The details regarding civilian casualties, including the questions of military necessity and proportionality in complex urban environments such as Gaza, are central to judgments regarding potential human rights violations and international legal requirements related to LOAC and IHL. In this context, OCHA's statements and statistics are frequently cited as authoritative in media accounts and by policy makers, including UN officials such as the Secretary General. As a result, major errors in these publications have significant consequences.

Within this framework, a number of NGOs were designated by OCHA to provide data on civilian casualties in Gaza. These NGOs include B'Tselem (based in Israel), Al-Mezan Center for Human Rights (based in Gaza), and the Palestinian Center for Human Rights (PCHR — also based in Gaza).

OCHA then acts as a “humanitarian coordination mechanism” and “consolidates” and publicizes this information.⁷

However, in producing and publishing these casualty statistics, the NGOs in OCHA’s “Protection Cluster” as well as OCHA itself are largely dependent on the Palestinian Ministry of Health in Gaza, which is under the control of Hamas. As a result, any claims to independent analysis are highly problematic.

In particular, B’Tselem has no independent sources of information in Gaza, and as an Israeli organization, is unable to verify information, particularly during major conflicts. On July 14, Executive Director Hagai El-Ad claimed that B’Tselem was “issuing unequivocal public statements according to the information we have gathered”. This included unverifiable statistics regarding civilian casualties, subjective allegations of “unlawful” Israeli military actions (for which B’Tselem does not possess the required expertise), and unverifiable and emotive “testimonies” (irrelevant for analyzing the legal dimensions).

However, on July 27, in response to questions regarding credibility, B’Tselem posted a “Note concerning testimonies about the ‘Protective Edge’ campaign” acknowledging that “With the current military campaign ongoing, B’Tselem is taking testimony from Gaza residents, mainly by telephone. B’Tselem verifies, to the best of its ability, the reliability and precision of the information reported; nevertheless, in these circumstances, reports may be incomplete or contain errors. Given the urgency of informing the public about events in Gaza, B’Tselem has decided to publish the information now available. When the military campaign ends, B’Tselem will supplement these reports as needed.” Thus, this NGO’s primary source of independent information is from telephone interviews with Gaza residents, whose claims cannot be verified.

PCHR and Al-Mezan are political organizations, based in Gaza, without credible methodologies for analysis of casualty claims, as shown in the January 2009 conflict. They claim to distinguish between civilians or combatants by visiting Gaza hospitals and morgues. If there is no clear evidence (i.e., casualties with weapons), these NGOs claim to quiz family or organizations (Hamas, Palestinian Islamic Jihad, etc.) on whether individuals were affiliated.

These NGOs also do not conduct background investigations? When the names of alleged civilian casualties were examined by the Terror Information Center in Israel, many were shown to be members of terrorist groups. UNOCHA, however, has failed to respond to the analysis published by this Israeli NGO, magnifying questions regarding the reliability of OCHA’s allegations regarding civilian casualties.³

In addition, the inclusion of Gaza civilian casualties killed by hundreds of misfired rockets from within this territory, including any that hit hospitals and playgrounds, is unclear. Gazan civilians have also reportedly been killed by Hamas in fights at a food line, and media sources reported that Hamas has executed tens of alleged collaborators. OCHA, PCHR, and Al Mezan omitted any reference to these details in their reports, and it is not clear if they include the dead from these incidents in their lists, and whether they are listed as civilians “killed by Israel”. People who die from natural causes might also be listed as “killed by Israel”.

The lack of verifiability in PCHR and Al Mezan casualty analyses is enhanced by their politicized agenda, including accusations that the IDF (“Israeli Occupation Forces”) is responsible for “massacres,” “war crimes,” and “disproportionate” and “criminal” attacks against civilians. Their allegations were a central component of the 2009 report on the Gaza conflict. In that case, PCHR’s civilian casualty claims were very similar to those provided by Hamas (via the Gaza Health Ministry), and later shown to be entirely unreliable. At the time, PCHR claimed that Gaza casualties were “1,167 non-combatants (82.2%) and 252 resistance activists (17.8%)”. In fact, more than half of the total were combatants.

These NGOs fail to condemn Hamas policies of systematically placing civilians in close proximity to combatants and related facilities. In February 2012, PCHR stated that an Israeli “warplane fired a missile at a training site used by Izz Addin al-Qassam Brigades, the military wing of Hamas, in Yafa

Street... The bombardment resulted in damages to the neighboring establishments, especially Gaza Martyrs Boys Basic School.” Yet, Israel, not Hamas, was condemned. PCHR and Al Mezan also fail to condemn indiscriminate rocket attacks against Israeli civilians, calling them “military actions.”

In conclusion, and based on the examination of the lack of appropriate methodologies and independent verifiability regarding the claims of the three key NGOs, the civilian casualty statistics and claims produced by the OCHA Protection Cluster framework must be considered unreliable.

Endnotes

¹These activities are supported and funded in part by the Norwegian Refugee Council (NRC). “As part of the Protection Cluster, NRC co-chairs the Legal Taskforce in both the West Bank and Gaza. This brings together domestic legal aid NGOs and international stakeholders on a monthly basis to share legal information and co-ordinate legal assistance, research and court monitoring.” (<http://www.nrc.no/?aid=9147817>) (The NRC and its partners — UK and EU — are highly secretive, and Freedom of Information requests have been denied.)

²The New Republic, “Numbers Game,” May 6, 2009, <http://www.newrepublic.com/article/politics/numbers-game>

³See, e.g., Meir Amit Terrorism & Intelligence Information Center, “Preliminary, partial examination of the names of Palestinians killed in Operation Protective Edge and analysis of the ratio between terrorist operatives and non-involved civilians killed in error,” July 28, 2014, http://www.terrorism-info.org.il/Data/articles/Art_20687/E_124_14_1121292827.pdf

APPENDIX B GAZANS SPEAK OUT: HAMAS WAR CRIMES

by Mudar Zahran⁹

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"If Hamas does not like you for any reason all they have to do now is say you are a Mossad agent and kill you." — A., a Fatah member in Gaza.

"Hamas wanted us butchered so it could win the media war against Israel showing our dead children on TV and then get money from Qatar." — T., former Hamas Ministry officer.

"They would fire rockets and then run away quickly, leaving us to face Israeli bombs for what they did." — D., Gazan journalist.

"Hamas imposed a curfew: anyone walking out in the street was shot. That way people had to stay in their homes, even if they were about to get bombed. Hamas held the whole Gazan population as a human shield." — K., graduate student

"The Israeli army allows supplies to come in and Hamas steals them. It seems even the Israelis care for us more than Hamas." — E., first-aid volunteer.

"We are under Hamas occupation, and if you ask most of us, we would rather be under Israeli occupation... We miss the days when we were able to work inside Israel and make good money. We miss the security and calm Israel provided when it was here." — S., graduate of an American university, former Hamas sympathizer.

While the world's media has been blaming Israel for the death of Gazan civilians during Operation Protective Edge, this correspondent decided to speak with Gazans themselves to hear what they had to say.

They spoke of Hamas atrocities and war crimes implicating Hamas in the civilian deaths of its own people.

Although Gazans, fearful of Hamas's revenge against them, were afraid to speak to the media, friends in the West Bank offered introductions to relatives in Gaza. One, a renowned Gazan academic, who spoke on condition of anonymity, said that as soon as someone talked to a Western journalist, he was immediately questioned by Hamas and accused of "communicating with the Mossad". "Hamas makes sure that the average

⁹ Zahran is a prominent Jordanian opposition figure and writer. Described by both Western and Arab media sources as "The leader of the Palestinians in Jordan." He was an avid civil rights advocatcritical of the Hashemite regime's discriminatory policies against the Palestinians. Zahran has two master's degrees from Southern New Hampshire University, USA, and continued his PhD degree in the UK.

¹⁰ Gatestone Institute, a non-partisan, not-for-profit international policy council and think tank is dedicated to educating the public about what the mainstream media fails to report in promoting:

- Institutions of Democracy and the Rule of Law;
- Human Rights
- A free and strong economy
- A military capable of ensuring peace at home and in the free world
- Energy independence
- Ensuring the public stay informed of threats to our individual liberty, sovereignty and free speech.

<http://www.gatestoneinstitute.org/4706/gazan-hamas-war-crimes>

Gazan will not talk to Western journalists -- or actually any journalists at all," he said, continuing:

" Hamas does not want the truth about Gaza to come out. Hamas terrorizes and kills us just like Daesh [ISIS] terrorizes kills Iraqis. Hamas is a dictatorship that kills us. The Gazans you see praising Hamas on TV are either Hamas members or too afraid to speak against Hamas. Few foreign [Western] journalists were probably able to report what Gazans think of Hamas."

When asked what Gazans did think of Hamas, he said:

"The same as Iraqis thought of Saddam before he was toppled. He still won by 90-something percent in the presidential elections. If Hamas falls today in Gaza, people here will do what Iraqis did to Saddam's statue after he fell. But even though Western journalists may not have been able to speak freely with Gazans, they still need a story to send to their editor by the end of the day. So it is just easier and safer for them to stick to the official line."

"What was that," I asked: "'Blame Israel?'"

"I don't know about that," he said. "More like, 'Never blame Hamas!'. Hamas was making a 'statement': Opposing Hamas Means Death. Hamas is a dictatorship that kills us."

M., a journalist, confirmed his view. "I do not believe any of the people Hamas killed in the last weeks were Israeli spies," he said. "Hamas has killed many people for criticizing it, and claimed they were traitors working for Israel during the war."

That conversation took place four weeks before Hamas killed 21 alleged "Israeli Mossad agents."

D, a store owner, said:

"There were two major protests against Hamas during the third week of the war. When Hamas fighters opened fire at the protesters in the Bait Hanoun area and the Shijaiya, five were killed instantly. I saw that with my own eyes. Many were injured. A doctor at Shifa hospital told me that 35 were killed at both protests. He went and saw their bodies at the morgue."

To verify those reports, I spoke to a second Gazan academic, who holds a PhD. from a Western university, who stated:

"Hamas did kill protesters, no doubt about that. But we could not confirm how many were actually killed. If I have to guess, the number was more than reported. I am confident that not all of the 21 men Hamas killed on August 22 were collaborating with Israel. Hamas killed those men because it was weakened by Israel's attacks and felt endangered. So it went on a 'Salem Witch-Hunt.' They arrested everyone who opposed them and had to make a few examples to scare people from standing against Hamas. Hamas's tactic worked. Now Gazans are afraid to talk against Hamas even in

front of their own family members. Gazans are probably afraid to criticize Hamas even in their sleep!"

As already reported by the award-winning journalist, Khaled Abu Toameh, Hamas killed one of its leaders, Ayman Taha, and blamed Israel for it.

Asked about Abu Toameh's report, S., a Gazan political activist said:

"Taha was already in Hamas's jail before Israeli operations started. Hamas imprisoned him and tortured him because he was critical of its radical policies. He had warned Hamas not to cooperate with Qatar and Iran. Eye-witnesses said they saw Hamas militants bring him alive into the yard of Shifa hospital in Gaza and shoot him dead. They kept mutilating his body in front of viewers and little children and left it on the hospital's yard for a few hours before allowing the staff to take it to the morgue."

A., a Fatah member in Gaza, spoke over Skype -- fearful that Hamas was intercepting phone lines:

"Even before the Israeli operation began, Hamas rounded up 400 of our members and other political-opposition figures. I would not be surprised if Hamas kills them all and then claims they were killed in an Israeli bombing. Hamas already beheaded a man known for opposing its views on the 22nd day of the war, then reported on its Facebook page that he was caught sending intelligence information to Israel. If Hamas does not like you for any reason, all they have to do now is claim you are a Mossad agent and kill you."

S. a medical worker, said:

"The Israeli army sends warnings to people [Gazans] to evacuate buildings before an attack. The Israelis either call or send a text message. Sometimes they call several times to make sure everyone has been evacuated. Hamas's strict policy, though, was not to allow us to evacuate. Many people got killed, locked inside their homes by Hamas militants. Hamas's official Al-Quds TV regularly issued warnings to Gazans not to evacuate their homes. Hamas militants would block the exits to the places residents were asked to evacuate. In the Shijaiya area, people received warnings from the Israelis and tried to evacuate the area, but Hamas militants blocked the exits and ordered people to return to their homes. Some of the people had no choice but to run towards the Israelis and ask for protection for their families. Hamas shot some of those people as they were running; the rest were forced to return to their homes and get bombed. This is how the Shijaiya massacre happened. More than 100 people were killed."

Another Gazan journalist, D., said:

"Hamas fired rockets from next to homes. Hamas was running from one home to another. Hamas lied when it claimed it was shooting from non-populated areas. To make things even worse for us, Hamas would fire from the balconies of homes and try to drag the Israelis into door-to-door battles and street-to-street fights -- a death sentence for all the civilians here. They would fire rockets and then run away quickly, leaving us to face Israeli bombs for what they did. They are cowards. If Hamas

militants are not afraid of dying, why do they run after they fire rockets from our homes? Why don't they stay and die with us? Are they afraid to die and go to heaven? Isn't that what they claim they wish?"

Hamas boasted that Palestinian civilians were killed while Hamas's terrorists remained alive, hiding in their underground bunkers and tunnels. (Image source: Hamas video screenshot)

K, another graduate student at an Egyptian university who had gone to Gaza to see his family but was unable to leave after the war started, said on July 22:

"When people stopped listening to Hamas orders not to evacuate and began leaving their homes anyway, Hamas imposed a curfew: anyone walking out in the street was shot without being asked any questions. That way Hamas made sure people had to stay in their homes even if they were about to get bombed. God will ask Hamas on judgment day for those killers' blood."

I asked him if Hamas used people as "human shields." He said: "Hamas held the entire Gazan population as a human shield. My answer to you is yes."

Palestinian Authority President Mahmoud Abbas told the press on September 6 that Hamas had killed 120 Fatah members who broke the curfew.

T., a former Hamas Ministry officer, said: "Hamas fires from civilian areas for a good reason: The Israelis call the civilians and give them ten minutes to evacuate. This gives Hamas time to fire another rocket and run away."

Why, I asked, did Hamas not allow people to evacuate?

"Some people say Hamas wants civilians killed in order to gain global sympathy, but I believe this is not the main reason. I think the reason is that if all the people were allowed to evacuate their homes, they all would have ended up in a certain area in Gaza. If that happened, it would have made the rest of Gaza empty of civilians, and the Israelis would have been able to hit Hamas without worrying about civilians in all those empty areas. Hamas wanted civilians all over the place to confuse the Israelis and make their operations more difficult."

S., a Gazan businessman, said:

"The cease-fire Hamas agreed to carried the same conditions the Egyptians and the Israelis offered during the second week of the war -- after only 160 Gazans had been killed. Why did Hamas have to wait until 2,200 were killed, and then accept the very same offer? Hamas has blackmailed the world with the killed Gazan civilians to make itself look like a freedom fighter against an evil Israel. Hamas showed Gazans that it could not care less for their blood and their children. And why should Hamas care? Its leaders are either in mansions in Qatar or villas in Jordan. Mashaal [Khaled Mashaal, the head of Hamas] is in Qatar, Mohammad Nazzal is in Jordan and Abu Marzouk is in Cairo: why should they want a ceasefire? Everyone here in Gaza is wondering why Hamas rejected so many ceasefires. Hamas knows it will not defeat Israel's army, so why did it continue fighting? The answer is simple: Hamas wanted us butchered so it

could win the media war against Israel by showing our dead children on TV and then get money from Qatar."

I asked S. if other Gazans shared his view. He said,

"Gazans are not stupid. We are now telling Hamas: Either you bring victory and liberate Palestine as you claim, or simply leave Gaza and maybe give it back to the Palestinian Authority or even Israel -- or even Egypt! We have had enough of Hamas's hallucinations and promises that never come true."

O., a researcher who lives in Gaza Strip's second largest city, Khan Younis, said:

"Most of us see Hamas as too radical and too stubborn, especially the way it was refusing ceasefires offered from Israel. They even refused a 24-hour ceasefire during the third week of the war. They denied us even 24 hours of quiet to bury the dead. Even some Hamas loyalists here are asking why Hamas refused several ceasefires and made us suffer. Hamas did this on purpose because Hamas is a slave to Qatar. Qatar wants the war to go on because it is a terrorist Islamist country, and Hamas wants more of us dead to appease its masters in Qatar. Let's be realistic, Hamas is in a bad shape now. Israel destroyed most tunnels; that is why Hamas had to join the ceasefire talks in Cairo. Were the Israelis' hits to Hamas not so painful, Hamas would not be negotiating in the first place. At the same time, Hamas is asking Israel for the impossible, like an open seaport and an airport. Israel would never allow that, and Hamas knows this, but Hamas might just be buying time by throwing out these demands. You have to keep in mind that Hamas is not concerned with our conditions as Gazans. After all it is our children who are dying, not the children of Hamas's leaders. Hamas is weak now, and I believe it lost most of its tunnels. Israel's Iron Dome destroyed so many of their rockets before they landed in Israel; that is why Hamas is being ruthless with Gazans. When Hamas locks people inside homes about to be bombed, when it kills people protesting against it and when it executes alleged traitors without even a trial, these are war crimes."

A report by the Washington Institute, released in July, also reports that most Gazans are not happy with Hamas's governance.

"It is true," said A., a teacher. "I do not know a single Gazan who is pro-Hamas at the moment, except for those on its payroll. Hamas maintains its control here through a military dictatorship, just like North Korea. People will be killed if they protest. Even Gazans living abroad fear to criticize Hamas because Hamas will take revenge on their relatives who are here."

M., a Gazan television producer, stated:

"Of course I am against Israel and I want it out of Gaza and out of the West Bank, but I still believe Hamas is more of a threat to the Palestinian people. Hamas took over Gaza by killing us [Palestinians] and throwing our young men from high buildings. That is what Hamas is about: murder and power. Hamas is also delusional. Its leaders refused the Egyptian cease-fire proposal, they got hit hard by the Israelis, and then when the war stopped, they declared victory. Even the prophet Muhammad, peace be upon him, admitted it when he lost Ohoud war [A war in which pagan Arabs defeated

Muhammad's army and in which Muhammad was almost killed]. Hamas lives in its own fantasy world. Hamas wanted the dead bodies to make Israel look ugly. The media has exerted a huge pressure on Israel for every dead Gazan. In that sense, Hamas's tactic has worked, and we have seen more Western tolerance of Hamas, especially in Europe. Of course Hamas doesn't care if we all die so long as it achieves its goals. We are not going to accept living under Hamas any longer. Even if there is calm, and the firing stops, we are going to still be under Hamas's mercy, where all basic living standards are considered luxuries. Hamas is just buying time by going to the ceasefire talks. Hamas does not want a ceasefire."

When asked why that was, he said, "Ask Qatar's Sheikh, not me. He is Hamas's god who gives them billions and tells them what to do. May God curse Qatar!"

A first-aid volunteer, E., said that Hamas militants had confiscated 150 truckloads of humanitarian supplies the day before. He said the supplies were donated by charities in the West Bank and that their delivery was facilitated by the IDF. He commented: "This theft angers all of us [Gazans]. The Israeli army allows supplies to come in, and Hamas steals them. It seems even the Israelis care for us more than Hamas."

Another aid worker, A., confirmed that Hamas steals the humanitarian supplies given to Gaza. "They [Hamas] take most of it, sell it to us, and just give us the stuff they do not want."

A Gazan mosque's imam said that the most precious aid item Hamas stole was water. "Gazans are thirsty and Hamas is stealing the water bottles provided to us for free and selling them at 20 Israeli shekels [approximately \$5] for the big bottle and 10 Israeli shekels for the small one."

H., who did not want his profession to be mentioned, lost one of his legs in an Israeli raid. I asked him who he thought was responsible for his injury. He stated:

"Hamas was. My father received a text-message from the Israeli army warning him that our area was going to be bombed, and Hamas prevented us from leaving. They said there was a curfew. A curfew, can you believe that? I swear to God, we will take revenge on Hamas. I swear to God I will stand on my other foot and fight against Hamas. Even if Israel leaves them alone, we will not. What had my two-year-old nephew done to be killed under the rubble of our home so Khaled Mashaal [Hamas leader based in Qatar] could be happy? We want change at any cost. I am not claiming the Israelis are innocent, but I know Hamas has fired rockets from every residential spot in Gaza. If that was not hiding behind civilians, then it was stupidity and recklessness. Nobody who is normal, in his right mind, in Gaza supports Hamas. People have lost parents, children and friends, and have nothing more to lose. I believe if given the chance and the weapons, they will stand against Hamas."

K., a Gazan school teacher agreed:

"When Hamas starts caring for our children we will start caring for Hamas. Hamas has one policy, to attack Israel; so Israel attacks back, and gets us killed and Hamas then gets more money from Arabs and Erdogan [Turkey's president]. My son has autism; he cannot handle the sounds of rockets and bombs landing. Why would I

support Hamas, which causes this suffering to him? Gazans have had enough of Hamas, any claims that we love Hamas is just propaganda. A recent poll indicates that most of us support Hamas; this is not true, except maybe in the West Bank where they have not yet lived under Hamas rule. I cannot accuse the polling center of fabricating the poll, but my safest explanation for the result is that Gazans polled are too afraid to give their true opinions of Hamas. Hamas watches everything here. Most Gazans now have to deal with the aftermath of the war. Almost 300,000 Gazans are now homeless and Hamas is not providing them with anything. So why would they or their extended families have any love for Hamas? Would there be any common sense to that? Most Gazans are angry at Hamas, and most of us would love to see them replaced by any other force."

Despite all Hamas has done to Gazans, they do not seem to hold much love -- or less hatred -- for Israel.

S., a graduate of an American university and a former Hamas sympathizer, warned:

"Don't get fooled. Gazans are not in love with Israel yet, but they do not want to fight Israel anymore. We do not want to embrace Israel; we just want to live normally without wars. We want to live and work in Israel like we used to. We are under Hamas occupation, and if you ask most of us, we would rather be under Israeli occupation, instead. I would welcome Netanyahu to rule Gaza so long as Hamas leaves, and I think most Gazans feel the same way. We miss the days when we were able to work inside Israel and make good money, we miss the security and calm Israel provided when it was here, but politically speaking, we just think of it as the better of two evils: Israel and Hamas."

M., who lost his 11 year old daughter in an Israeli bombing said: "I will not forgive either Hamas or Israel for losing my daughter. If you ask me if I hate Israelis, my answer would be no, but do I love them? Of course not. There is too much blood between us, but I can only hope someday we both will move on and heal our wounds."

When asked what he would do if he were in Israel's place, being attacked non-stop by Hamas, he responded: "I do not care if both Israel and Gaza burn in hell."

F., a Gazan physician, said:

"I wish Israel never existed, but as it does not seem to be going away, I would rather be working in Israel like I used to before the first Intifada, not fighting it. Hamas sympathizers, apologists and appeasers should be ashamed of themselves for supporting a terrorist organization that has butchered civilians, Israeli and Palestinian. Apparently a group of Israelis is working on bringing Hamas leader Khaled Mashaal to trial in the International Criminal Court. But perhaps the world should consider putting all the Hamas leaders on trial for crimes against the Gazan people."

APPENDIX C ABBAS SAYS 120 KILLED BY HAMAS

Financial Times ft.com

September 7, 2014 8:17 pm

Abbas threatens to end Palestinian unity government with Hamas

By John Reed in Jerusalem

<http://www.ft.com/intl/cms/s/0/e68972ca-3695-11e4-85be-00144feabdc0.html#axzz3Om30rYGo>

Fatah also accused Hamas “militias” of shooting or beating dozens of its members in Gaza. Mr Abbas said on Saturday that **Hamas had killed 120 young men** during the war for breaking a curfew, and sentenced others to death by summary execution on Gaza’s streets

President Mahmoud Abbas swore in a Palestinian unity government on Monday under a reconciliation deal with Hamas Islamists that led Israel to freeze U.S.-brokered peace talks with the Western-backed leader. REUTERS/Suhaib Salem (GAZA - Tags: POLITICS)©Reuters

Ismail Haniyeh, Senior Hamas leader, delivers a farewell speech in his former position as a Hamas government prime minister in Gaza, as President Mahmoud Abbas swore in a Palestinian unity government on June 2

Mahmoud Abbas, the Palestinian Authority president, has threatened to dissolve a four-month-old unity government with Hamas after clashing with the Islamist group over salaries, political violence and plans to rebuild in Gaza.

The growing rancour between Mr Abbas’ Fatah and Hamas, the two biggest Palestinian political factions, threatens to disrupt plans to rebuild Gaza’s ruined infrastructure following the recent Israeli military operation, as well as upcoming talks in Cairo aimed at securing a long-term truce.

Mr Abbas, speaking on Saturday, accused Hamas of operating a “shadow government” in Gaza, saying its ministries and officials remained in power and had not stepped aside for the Palestinian Authority, as outlined in April’s Fatah-Hamas reconciliation accord.

“If Hamas won’t accept a Palestinian state with one government, one law and one gun, then there won’t be any partnership between us,” Mr Abbas said. “This is our condition and we won’t back away from it.”

Sami Abu Zuhri, a Hamas spokesman, said in response that Mr Abbas’ remarks were “untrue, baseless and unfair to our people”, adding that Hamas representatives would soon meet their Fatah counterparts to discuss their differences.

Hamas has been frustrated with the Palestinian Authority's failure to fund the salaries of 40,000 civil servants who have not been paid since May, one of the main drivers of the reconciliation deal. The group also oppose the Ramallah administration's bid to control future flows of reconstruction aid to Gaza.

Fatah and Hamas, which split violently in 2007 and have governed the West Bank and Gaza respectively since then, put aside their differences to form a technocratic government in May, meant to allow for long-postponed national elections to be held in another six months.

However, Israel has vehemently opposed the reconciliation deal, and tensions between the rival factions flared further during Operation Protective Edge, the recent 50-day Israeli military operation in Gaza.

Last month, Fatah angered Hamas when it accused the Islamist group of selling food and medical aid sent to Gaza on the black market. Fatah also accused Hamas "militias" of shooting or beating dozens of its members in Gaza. **Mr Abbas said on Saturday that Hamas had killed 120 young men during the war for breaking a curfew, and sentenced others to death by summary execution on Gaza's streets.**

Further fuelling tensions between the two sides, a poll published last week by the Palestinian Centre for Policy and Survey Research found that Ismail Haniya, Hamas' former Gaza prime minister, would easily trounce Mr Abbas in a Palestinian election if one were to be held now.

"There's no trust whatsoever between Hamas and Fatah," said Mkhaimar Abusada, a political scientist at Al-Azhar University in Gaza City. "Fatah think Hamas are on their way to take over the West Bank, and Hamas feel Abbas is exploiting them to revive peace negotiations with Israel."

The squabbling, if it causes the unity government to collapse, could cripple efforts to rebuild Gaza after the most destructive of Israel's three military campaigns against Hamas since 2009.

International donors, led by Egypt and Norway, have tentatively endorsed a bid by the Palestinian Authority to lead reconstruction after Israel's military assault, which the Ramallah government estimated last week would cost \$7.84bn. However, they would be unlikely to provide aid directly to Hamas, which the EU and US classify as a terrorist group.

And Egypt has made it clear that it will not reopen Gaza's border crossing at Rafah – seen as a vital step in reviving the blockaded enclave's economy – unless the Palestinian Authority is sent in to replace Hamas there.

APPENDIX D SHARON'S SPEECH TO KNESSET ON DISENGAGEMENT

(Note. Highlighting of paragraphs considered to be of special interest has been added by the author)

Prime Minister Ariel Sharon's Address to the Knesset-The Vote on the
Disengagement Plan
25 Oct 2004

<http://mfa.gov.il/MFA/PressRoom/2004/Pages/PM%20Sharon%20Knesset%20speech%20-%20Vote%20on%20Disengagement%20Plan%2025-Oct-2004.aspx>

Mr. Speaker, Members of Knesset,

This is a fateful hour for Israel. We are on threshold of a difficult decision, the likes of which we have seldom faced, the significance of which for the future of our country in this region is consistent with the difficulty, pain, and dispute it arouses within us. You know that I do not say these things with a light heart to the representatives of the nation and to the entire nation watching and listening to every word uttered here in the Knesset today. This is a people that has courageously faced and still faces the burden and terror of the ongoing war, which has continued from generation to generation; in which, as in a relay race, fathers pass the guns to their sons; in which the boundary between the front line and the home front has long been erased; in which schools and hotels, restaurants and marketplaces, cafes and buses have also become targets for cruel terrorism and premeditated murder.

Today, this nation wants to know what decision this house will make at the end of this stormy discussion. What will we say to them, and what message will we convey to them? For me, this decision is unbearably difficult. During my years as a fighter and commander, as a politician, Member of Knesset, as a minister in Israel's governments and as prime minister, I have never faced so difficult a decision.

I know the implications and impact of the Knesset's decision on the lives of thousands of Israelis who have lived in the Gaza Strip for many years, who were sent there on behalf of the governments of Israel, and who built homes there, planted trees and grew flowers, and who gave birth to sons and daughters, who have not known any other home. I am well aware of the fact that I sent them and took part in this enterprise, and many of these people are my personal friends. I am well aware of their pain, rage, and despair. However, as much as I understand everything they are going through during these days and everything they will face as a result of the necessary decision to be made in the Knesset today, I also believe in the necessity of taking the step of disengagement in these areas, with all the pain it entails, and I am determined to complete this mission. I am firmly convinced and truly believe that this disengagement will strengthen Israel's hold over territory which is essential to our existence, and will be welcomed and appreciated by those near and far, reduce animosity, break through boycotts and sieges and advance us along the path of peace with the Palestinians and our other neighbors.

I am accused of deceiving the people and the voters, because I am taking steps which are in total opposition to past things I have said and deeds I have done. This is a false accusation. Both during the elections and as prime minister, I have repeatedly and publicly said that I support the establishment of a Palestinian state alongside the State of Israel. I have repeatedly and openly said that I am willing to make painful compromises in order to put an end to this ongoing and malignant conflict between those who struggle over this land, and that I would do my utmost in order to bring peace.

And I wish, Mr. Chairman, to say that many years before, in 1988, in a meeting with Prime Minister Yitzchak Shamir and with the ministers of the Likud, I said there that I believe that if we do not want to be pushed back to the 1967 lines, the territory should be divided.

As one who fought in all of Israel's wars, and learned from personal experience that, without proper force, we do not have a chance of surviving in this region, which does not show mercy towards the weak, I have also have learned from experience that the sword alone cannot decide this bitter dispute in this land.

I have been told that the disengagement will be interpreted as a shameful withdrawal under pressure, and will increase the terror campaign, present Israel as weak, and will show our people as a nation unwilling to fight and to stand up for itself. I reject that statement outright. We have the strength to defend this country, and to strike at the enemy which seeks to destroy us.

And there are those who tell me that, in exchange for a genuine signed peace agreement, they too would be willing to make these painful compromises. However, regrettably, we do not have a partner on the other side with whom to conduct genuine dialogue, in order to achieve a peace agreement. Even prime ministers of Israel who declared their willingness to relinquish the maximum territory of our homeland were answered with fire and hostility. Recently, the chairman of the Palestinian Authority declared that "a million shaheeds will break through to Jerusalem." In the choice between a responsible and wise action in history, which may lead to painful compromise and a "holy war" to destroy Israel, Yasser Arafat chose the latter – the path of blood, fire, and shaheeds. He seeks to turn a national conflict that can be terminated through mutual understanding into a religious war between Islam and Jews, and even to spill the blood of Jews who live far away.

Israel has many hopes and faces extreme dangers. The most prominent danger is Iran, which is making every effort to acquire nuclear weapons and ballistic missiles, and establishing an enormous terror network together with Syria in Lebanon.

And I ask you: What are we doing and what are we struggling over in the face of these terrible dangers? Are we not capable of uniting to meet this threat? This is the true question.

The Disengagement Plan does not replace negotiations and is not meant to permanently freeze the situation which will be created. It is an essential and necessary step in a situation which currently does not enable genuine negotiations for peace. However, everything remains open for a future agreement, which will hopefully be

achieved when this murderous terror ends, and our neighbors will realize that they cannot triumph over us in this land.

Mr. Chairman, with your permission, I will read several lines from a famous essay which was published in the midst of the Arab Revolt of 1936 – and we must bear in mind that the Jewish community in Israel numbered less than 400,000. This essay by Moshe Beilinson was published in “Davar”, as I mentioned, during the murderous Arab Revolt of 1936 (and I quote): “How much longer? People ask. How much longer? Until the strength of Israel in its land will condemn and defeat in advance any enemy attack; until the most enthusiastic and bold in any enemy camp will know there are no means to break the strength of Israel in its land, because the necessity of life is with it, and the truth of life is with it, and there is no other way but to accept it. This is the essence of this campaign.”

I am convinced that everything we have done since then confirms these emphatic words.

We have no desire to permanently rule over millions of Palestinians, who double their numbers every generation. Israel, which wishes to be an exemplary democracy, will not be able to bear such a reality over time. The Disengagement Plan presents the possibility of opening a gate to a different reality.

Today, I wish to address our Arab neighbors. Already in our Declaration of Independence, in the midst of a cruel war, Israel, which was born in blood, extended its hand in peace to those who fought against it and sought to destroy it by force (and I quote): “We appeal – in the very midst of the onslaught launched against us now for months – to the Arab inhabitants of the State of Israel to preserve peace and participate in the upbuilding of the state on the basis of full and equal citizenship and due representation in all its provisional and permanent institutions.”

A long time has passed since then. This land and this region have known more wars, and have known all the wars between the wars, terrorism and the difficult counteractions undertaken by Israel, with the sole purpose of defending the lives of its citizens. In this ongoing war, many among the civilian population, among the innocent, were killed. And tears met tears. I would like you to know that we did not seek to build our lives in this homeland on your ruins. Many years ago, Ze'ev Jabotinsky wrote in a poem his vision for partnership and peace among the peoples of this land (and I quote): “There he will be saturated with plenty and joy, the son of the Arab, the son of Nazareth, and my son.”

We were attacked and stood firm, with our backs to the sea. Many fell in the battle, and many lost their homes and fields and orchards, and became refugees. This is the way of war. However, war is not inevitable and predestined. Even today, we regret the loss of innocent lives in your midst. Our way is not one of intentional killing.

Forty-eight years ago, on the eve of our Independence Day in 1956, against the background of the return of the bodies of ten terrorists who committed crimes in Israel, murderous acts in Israel, and who were delivered in wooden coffins to the Egyptians at a border crossing in the Gaza Strip, on this, the Hebrew poet Natan Alterman wrote the following:

“Arabia, enemy unknown to you, you will awake when you rise against me,
My life serves as witness with my back against the wall and to my history and
my God,
Enemy, the power of whose rage in the face of those who rise to destroy him
until the day
Will be similar only to the force of his brotherhood in a fraternal covenant
between one nation and another.”

This was during the time of the terrorist killings and our retaliatory raids.

Members of Knesset,

With your permission, I wish to end with a quotation from Prime Minister Menachem Begin, who at the end of December 1977 said on this podium (and I quote):

“Where does this irresponsible language come from, in addition to other things which were said? I once said, during an argument with people from Gush Emunim, that I love them today, and will continue to like them tomorrow. I told them: you are wonderful pioneers, builders of the land, settlers on barren soil, in rain and through winter, through all difficulties. However, you have one weakness – you have developed among yourselves a messianic complex.

"You must remember that there were days, before you were born or were only small children, when other people risked their lives day and night, worked and toiled, made sacrifices and performed their tasks without a hint of a messianic complex. And I call on you today, my good friends from Gush Emunim, to perform your tasks with no less modesty than your predecessors, on other days and nights.

"We do not require anyone to supervise the Kashrut of our commitment to the Land of Israel! We have dedicated our lives to the Land of Israel and to the struggle for its liberation, and will continue to do so.”

I call on the people of Israel to unite at this decisive hour. We must find a common denominator for some form of “necessary unity” which will enable us to cope with these fateful days with understanding, and through our common destiny, and which will allow us to construct a dam against brotherly hatred which pushes many over the edge. We have already paid an unbearably high price for murderous fanaticism. We must find the root which brings us all together, and must carry out our actions with the wisdom and responsibility which allow us to lead our lives here as a mature and experienced nation. I call on you to support me at this decisive time.

Thank you.

APPENDIX E HAMAS MANUAL EXPLAINS BENEFITS OF HUMAN SHIELDS

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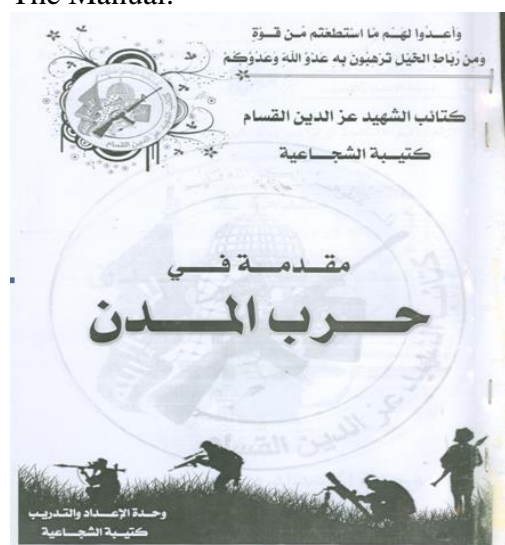
IDF forces in the Gaza Strip found a Hamas manual on “Urban Warfare,” which belonged to the Shuja’iya Brigade of Hamas’ military wing, the Al-Qassam Brigades. The manual explains how the civilian population can be used against IDF forces and reveals that Hamas knows the IDF is committed to minimizing harm to civilians.

<http://www.idfblog.com/blog/2014/08/04/captured-hamas-combat-manual-explains-benefits-human-shields/>

Throughout Operation Protective Edge, Hamas has continuously used the civilian population of Gaza as human shields. The discovery of a Hamas “urban warfare” manual by IDF forces reveals that Hamas’ callous use of the Gazan population was intentional and preplanned.

This Hamas urban warfare manual exposes two truths: (1) The terror group knows full well that the IDF will do what it can to limit civilian casualties. (2) The terror group exploits these efforts by using civilians as human shields against advancing IDF forces.

The Manual:



In a portion entitled “Limiting the Use of Weapons,” the manual explains that:

The soldiers and commanders (of the IDF) must limit their use of weapons and tactics that lead to the harm and unnecessary loss of people and [destruction of] civilian facilities. It is difficult for them to get the most use out of their firearms, especially of supporting fire [e.g. artillery].

Clearly Hamas knows the IDF will limit its use of weapons in order to avoid harming civilians, including refraining from using larger firepower to support for infantry.

The manual goes on to explain that the “presence of civilians are pockets of resistance” that cause three major problems for advancing troops:

- (1) Problems with opening fire
- (2) Problems in controlling the civilian population during operations and afterward
- (3) Assurance of supplying medical care to civilians who need it

Lastly, the manual discusses the benefits for Hamas when civilian homes are destroyed:

The destruction of civilian homes: This increases the hatred of the citizens towards the attackers [the IDF] and increases their gathering [support] around the city defenders (resistance forces[i.e. Hamas]).

It is clear that Hamas actually desires the destruction of homes and civilian infrastructure, knowing it will increase hatred for the IDF and support their fighters.

Why Shuja’iya is Important

It is also of no small importance that this manual belongs to the Shuja’iya Brigade. The IDF fought a major battle in the neighborhood of Shuja’iya, which had been turned into a terrorist stronghold. The discovery of this manual suggests that the destruction in Shuja’iya was always part of Hamas’ plan.