

SUBMISSION

With regard to Responsibility for the Death of Children in Gaza

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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This Submission is not confidential

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To members of the United Nations Independent Commission of Inquiry on the 2014 Gaza Conflict “Operation Protective Edge”, Mary McGowan Davis, Doudou Diène and William Schabas

Israel's efforts to destroy missiles before they can be fired at Israeli civilians, even if that places Palestinian civilians (and children) at risk, complies perfectly with the Laws of War. **There is no requirement that Israel place the lives of its own citizens in danger solely to protect the lives of Palestinian civilians.** Not only is there no 'evidence that Israel has intentionally targeted Palestinian civilians, the evidence is totally in favour of the most moral army in the modern era, when Palestinians are informed in advance of the intended target, by leaflet, by telephone, by “roof-knocking”, a loud but non-lethal bomb and even aborting air strikes if, in the pilots judgment, civilian losses would be too great (see <http://www.idfblog.com/blog/2014/07/14/hamas-spokesman-we-are-leading-palestinians-to-death/>). Actually, the critics need to be more careful. As one writer, Will Slaten, has noted: “Israel is raising the standards of what can be expected in warfare”. In any future conflict, any party not meeting Israel's raised standards may expect to receive an invitation to the International Criminal Court.

This memorandum is submitted in response to your call for submissions by individuals as outlined in your summary, including all violations of international humanitarian law and international human rights law in the specified territories in the context of the military operations conducted since 13 June 2014, WHETHER BEFORE, DURING OR AFTER. The Commissioners have made it clear that they interpret this mandate to include investigations of the activities of Palestinian armed groups in Gaza, including attacks on Israel, as well as the Israeli military operation in the Gaza Strip and Israeli actions in the West Bank, including East Jerusalem. Further, the Commission of Inquiry will be looking at a broad range of alleged violations committed by all parties, and will be considering the full range of human rights, including economic, social and cultural rights.

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1. THE CHILDREN OF GAZA

This Submission relates mainly to the death of children in Gaza and responsibility therefore.

It has been reported in the media that about 500 (reports mention between 495 and 513) children were killed in the recent Operation Protective Edge which Operation resulted from the endless rocket firing for several years by Hamas at the civilian population of Israel including, by definition, Israel's children population.

It is submitted that sole and entire responsibility, culpability and criminal responsibility for these deaths lies with the controlling power and authority in Gaza, Hamas. Hamas is the English translation of the Islamic Resistance Front.

This submission will be examining the different approaches by the authorities of Gaza and Israel to the safety and protection of children in Gaza and Israel before and during military operations and determining responsibility for the consequences of their respective decision making.

2. HAMAS` CHARTER

Hamas in its charter states that it is part of the Moslem Brotherhood, an extreme Islamist movement with little to no respect for liberty, democracy, life and limb as understood in Western democratic society.

Any investigation into Hamas`s motives for its actions must necessarily commence with its charter. **Hamas' charter calls for the destruction of the State of Israel and its replacement with a Palestinian Islamic state from the Jordan River to the Mediterranean See.**

The Hamas Charter:

Preamble:

Israel will exist and will continue to exist until Islam will obliterate it, just as it obliterated others before it" (The Martyr, Imam Hassan al-Banna, of blessed memory).

Article One:

The Islamic Resistance Movement: The Movement's programme is Islam. From it, it draws its ideas, ways of thinking and understanding of the universe, life and man. It resorts to it for judgment in all its conduct, and it is inspired by it for guidance of its steps.

The Islamic Resistance Movement's Relation with the Muslim Brotherhood Group:

Article Two:

The Islamic Resistance Movement is one of the wings of Muslim Brotherhood in Palestine. Muslim Brotherhood Movement is a universal organization which constitutes the largest Islamic movement in modern times. It is characterized by its deep understanding, accurate comprehension and its complete embrace of all Islamic concepts of all aspects of life, culture, creed, politics, economics, education, society, justice and judgment, the spreading of Islam, education, art, information, science of the occult and conversion to Islam.

Article Seven:

"The Day of Judgement will not come about until Muslims fight the Jews (killing the Jews), when the Jew will hide behind stones and trees. **The stones and trees will say O Muslims, O Abdulla, there is a Jew behind me, come and kill him.** Only the Gharkad tree, would not do that because it is one of the trees of the Jews." (related by al-Bukhari and Muslim).

Article Thirteen

There is no solution for the Palestinian question except through Jihad. Initiatives, proposals and international conferences **are all a waste of time and vain endeavors.**

It is submitted that Hamas` continued and uninterrupted attacks on Israel are not in any way related to “occupation”, “settlements” or other pretext but are in furtherance of the objectives set forth in Hamas` charter. The Commission is requested not to confuse justification with the true objectives of Hamas. Hamas` actions need to be understood within Hamas` ideology. As an example of Hamas` pursuit of its aims as expressed in its Charter, Hamas recently introduced Sharia criminal law in Gaza. These laws include the death penalty, stoning, chopping off of limbs and lashing. Hamas has been determined to be a terrorist organization by the USA and the EU (under judicial review on procedural grounds).

Hamas is thus an integral part of the Moslem Brotherhood which includes the now banned Moslem Brotherhood organizations of Bahrain, Egypt, Russia, Syria, Saudi Arabia and United Arab Emirates as well as similar organizations such as Al Qaeda, Taliban, Boko Haram and others. These organizations have no hesitation or show no mercy in their actions to achieve their aims. This Commission should take note of the attack on the Twin Towers in the USA and major attacks in London and Madrid.

3. ATTACKS ON OR THE USE OF CHILDREN

Attacks on children or the use of children in a military context are an integral part of the Moslem Brotherhood's and other extreme organizations' strategy, including Hamas. The Commission cannot ignore what is clearly a course of action throughout the (extreme) Islamic/Moslem Brotherhood (but not the normal Moslem) world. I bring the following partial list of incidents to the attention of the Commission:

In early January 2015, a bomb strapped to a girl aged around 10 years old sent by the Islamist militant group Boko Haram exploded in a busy market place in the Nigerian city of Maiduguri, killing at least 16 people and injuring more than 20.

The next day, two suspected child suicide bombers blew themselves up in a market in northeast Nigeria on Sunday, witnesses said, killing three people in the second apparent attack in two days using young girls strapped with explosives.

In the latest Islamist attack on children on or about 18 January 2015, militants from Nigerian Islamist group Boko Haram have kidnapped dozens of people in raids in neighbouring Cameroon, officials say. They said many of those kidnapped in the cross border attack against villages were children.

Officials told Reuters that as many as 80 people had been kidnapped. **Those abducted included about 30 adults and 50 children between the ages of 10 and 15**, an army officer deployed to northern Cameroon told the agency.

In November 2014, at least 47 students were killed by a suicide bomber at a school assembly in the north-eastern Nigerian town of Potiskum. The explosion at a boys' science and technical school in the town was caused by a suicide bomber dressed as a student sent by Boko Haram.

In May 2014 scores of girls and young women, mainly Christian, kidnapped from a school in Nigeria were being forced to marry their Islamic abductors. The girls were sold into marriage to Boko Haram militants for 2,000 naira (\$12) each. About 50 of the kidnapped girls managed to escape from the captors in the first days after their abduction, but some 220 remain missing. Subsequently a further about 50 girls and 60 boys were abducted.

In mid-December 2014, an Islamic/Taliban assault on the Pakistan Army Public School in Peshawar left 145 people dead. Most of them were children killed during the first hours of the assault. Survivors described how gunmen entered and sprayed the building indiscriminately. The fact that the victims were children was irrelevant.

More than 76,000 people died in Syria's civil war in 2014 alone, including 17,790 civilians, among them 3,501 children, the Syrian Observatory for Human Rights, based in the UK, reported early January - making it the deadliest year since the conflict began in March 2011.

To date, the war in Syria has created over 3 million refugees fleeing Syria since 2011, half of whom are children.

The UK-based group cites failure of international human rights law for high casualties, including 63,074 civilian deaths including 10,377 children. "We have documented the killing of 202,354 people since March 2011," Syrian Observatory for Human Rights director Rami Abdul Rahman said, adding that more than 130,000 of them were combatants.

(No examples are given of actions by the so-called Islamic State. It is not submitted that the Moslem Brotherhood, including Hamas, is on the same level of cruelty and depravity as the Islamic State)

4. HAMAS TARGET ISRAELI CHILDREN

Hamas, too, target children. The Palestinian tactic of targeting children is not new, but there are unfortunately plenty of recent examples: In 2011, Hamas launched a heat seeking missile at an Israeli school bus, killing a 16-year old boy. In 2010, Palestinian terrorists associated with the PFLP murdered five members of the Fogel family, including three young children in their sleep.

In 2004, Gazan terrorists affiliated with Islamic Jihad shot at point blank range and killed Tali Hatuel, eight-months pregnant, along with her four young daughters aged two to 10.

Since Israel withdrew in 2005 to the 1967 lines, Hamas has targeted Israel's civilian population, which includes children, with about 15,000 rocket attacks. Each rocket attack targeting civilians including without distinction, children with the intent to kill and maim, is a separate and distinct war crime.

Frequent rocket fire has also caused many injuries to Israeli children in recent years. Permanent disability among children has resulted, including blindness, paralysis, brain damage, and loss of limbs.

In 2009, Hamas spokesman Mahmoud Az-Zahar called to murder Israelis and Jews worldwide, including children. "The Israelis have sentenced their children to death... They have legitimized the killing of their people all over the world," he said. Hamas' platform calls for all Jews to convert to Islam or be killed, based on an Islamic saying (Hadith), and the group has not refrained from targeting children in the past. Hamas will destroy synagogues and Jewish schools as well, Zahar said.

In June 2014, three Israeli teenagers were kidnapped and murdered. After initially denying any connection, in August 2014, a Hamas senior official admitted for the first time that members of its militant wing kidnapped and killed the three Israeli teenagers in June. Saleh Al-Arouri said the al-Qassam Brigades, referring to Hamas's armed wing, were responsible for kidnapping them. (RT 21 August 2014).

Israeli professor Edward Kaufman has written that widespread PTSD (Post Traumatic Stress Disorder) among Israeli children is caused by "the environment of fear resulting from indiscriminate acts of terror". Studies have found high levels of PTSD in southern Israel which is frequently attacked by rockets and mortars from the Gaza Strip. In particular, frequent air-raid sirens and explosions of incoming projectiles have caused severe psychological trauma in the city of Sderot.



Israel protected its babies and children during Hamas` rocket attacks. Photo taken at Petach Tikva`s Schneider Children`s Hospital during a Gaza rocket attack. Hospital staff holding newborn babies in the stairwell during a rocket alert siren.



Israeli children in a bomb shelter in the south of Israel.



4-year-old Daniel Tregerman killed by mortar fire in Southern Israel.

The mortar was launched next to the Jafar Ali Ibn Taleb school in the Zeitoun neighborhood of Gaza City.

That more Israeli children were not killed has nothing to do with Hamas. Hamas' criminal intent to kill Israeli civilians, including children, is evidenced by each and every rocket and mortar aimed at an Israeli civilian target – which was each rocket launched. Civilians including children were saved from death and injury through bomb shelters built in homes, schools, places of employment and public places as well as technology – the Iron Dome. Billions of dollars were diverted from infrastructure, education, social policies, health and the like in order to protect the Israeli civilian population.

This submitter, together with his family, was compelled to take shelter in his home bomb shelter on about ten occasions during Operation Protective Edge.

5. ISRAEL TARGETS GAZA CHILDREN - WITH HEALTHCARE.

The Commission of Inquiry will beconsidering the full range of human rights. Probably the most important of human rights is health.

Since 1967, when Israel captured the West Bank and Gaza, Palestinian life expectancy has risen by about 10 years.

The 2014 life expectancy in the West Bank is 75.69 years and 74.64 in Gaza. That is higher than Malaysia 74.52. (74.39). It is higher than the West Bank's neighbors in Jordan (74.10 years) and Egypt (73.45 years). Its even higher than Turkey (73.29 years). Let's not talk about South Africa: 49.56

Since 1967, when Israel captured the West Bank, Palestinian infant mortality has been reduced from approximately 100/1,000 to 13.49/1,000 and Gaza to 15.46.

Table 2. Infant mortality rate per 1000 live births (2014 estimates), CIA country comparison, selected countries' rankings out of 224

| Rank | Country | Infant mortality rate |
|------------|-------------------|-----------------------|
| 2 | Japan | 2.1 |
| 26 | Israel | 4.0 |
| 36 | United Kingdom | 4.4 |
| 51 | Morocco | 24.5 |
| 56 | US | 6.2 |
| 65 | Russia | 7.1 |
| 70 | Lebanon | 8.0 |
| 99 | Libya | 11.9 |
| 108 | West Bank | 13.5 |
| 113 | Oman | 14.00 |
| 115 | Saudi Arabia | 14.6 |
| 120 | Gaza Strip | 15.5 |
| 121 | Jordan | 15.7 |

| | | |
|-----|--------------|------|
| 122 | Syria | 15.8 |
| 141 | Turkey | 21.4 |
| 145 | Egypt | 22.4 |
| 147 | Tunisia | 23.2 |
| 163 | Iraq | 37.5 |
| 170 | Iran | 39.0 |
| 174 | South Africa | 41.6 |

Source: Central Intelligence Agency World Fact Book 2014.

South Africa is included since it is the home country of the previous Chairlady of the UNHRC.

The life expectancy and infant mortality rates set out above do not indicate oppression or genocide and are better than most Arab countries.

Amongst the Gazan residents treated in Israel were the sister and **granddaughter of Hamas` s leader, Ismail Haniyeh.**

According to UNICEF, there are 2.2 billion children on earth. Out of those 2.2 billion, nearly one billion children live in poverty and do not have access to proper medical treatment. Dr. Amram Cohen, a devoted Israeli physician, decided to create an organization to help alleviate this problem. He founded Save a Child's Heart in 1995 so that money would not be an obstacle to children receiving life-saving heart surgeries. Since 1995, Save a Child's Heart has saved nearly 3,300 children from 48 different countries. Nearly half of those children are from the **Palestinian Authority**, Jordan, Iraq, Syria and Morocco; more than 30% are from Africa; and the remaining are from Asia, Eastern Europe and the Americas.

The intake of children from the PA is every Tuesday with usually about half the children from the West Bank and half from Gaza. The intake continued every Tuesday without interruption during Operation Protective Edge as Israeli doctors in Holon laboured to save the lives of Palestinian children born with heart defects, occasionally while under the threat of incoming rockets.

"It does not matter what side of the political map you are on," said Dr. Akiva Tamir, head of pediatric cardiology at Wolfson. "The parents of these children want them to live – just like parents [in Israel]."

One of the mothers said that she and her son, Marwan, arrived from Gaza via the Erez Crossing. "When we arrived at the checkpoint, there was suddenly a siren," she said. "They quickly brought us to the bathroom. We hid there until it calmed down, and we continued on our way. Despite it all, I had to arrive. It does not matter what the situation is outside."



A Palestinian girl playing next to her mother a few days after receiving heart surgery at Wolfson Medical Center in Holon in 2012.

Israeli-based humanitarian project Save a Child's Heart brings Palestinian children to Wolfson Medical Center for treatment • A Gazan child's grandmother: We did not face discrimination. I don't care what they will say in Gaza, I saw the reality here.



Even as Gaza Strip-based terrorists continued to fire rockets at Israel, Palestinian children continued to receive medical care at the Edith Wolfson Medical Center in the central Israeli city of Holon.

On every Tuesday during the conflict, as on every Tuesday for the past 18 years, children from Gaza and the West Bank arrived at the hospital for routine medical checks as part of the Israeli-based international humanitarian project Save a Child's Heart, which provides life-saving medical care for children born with heart defects.

"In our experience, there has never been a situation where the children did not come here," said Dr. Alona Raucher, a senior cardiologist at the hospital. "We know how to separate outside circumstances from medicine and saving lives."

On one of the Tuesdays, newborn Abdul Rahman Wahdan and his grandmother, Maliha Khateb, left Wolfson to return to their home in the northern Gaza Strip town of Beit Hanoun.

Abdul came to the hospital less than a month before the conflict broke out, when he was only 11 days old. He was suffering from a severe heart defect and was operated on in Israel.

"I appreciate and respect the treatment we received here," Khateb said. "We did not face any discrimination. I don't care what they will say in Gaza, I saw the reality here."

In 2012 about 28,000 Palestinian children were treated in Israeli hospitals.

In 2013 about 40,000 Palestinian children were treated in Israeli hospitals.

Unfortunately, there does not appear to be available any breakdown between the West Bank and Gaza but due diligence requires me to state that my impression is that most children came from the West Bank.

About 27,300 critical care patients from Gaza were treated in Israel in 2013. During Gaza war, about 300 emergency care patients from Gaza were received in Israel to be treated for cancer, kidney disease, heart disease, and other critical conditions. That created a bizarre situation in which Gaza patients were admitted to Israeli medical centers even as Hamas fired rockets at the very cities where those patients are being treated.

Unfortunately, there does not appear to be available any breakdown between adults and children but the trend and the Israeli assistance is clear and unambiguous.

The following Palestinian press report is self-explanatory. Unfortunately, there does not appear to be available any breakdown between the West Bank and Gaza.

Official PA daily acknowledges Israeli hospital's medical care for Palestinian children and training of doctors

The official PA daily reported on a visit by the PA Minister of Health, Hani Abdeen, to Israel's Hadassah Hospital in Jerusalem. The daily noted that 30% of the child patients in Hadassah are Palestinians and that the Israeli hospital is training "60 Palestinian medical interns and specialist physicians who will be returning to the [Palestinian] Authority areas to carry out their work." The hospital has a special program to train Palestinian doctors to treat cancer among children, reported the PA daily.

The following is the report:

"[PA] Minister of Health, Hani Abdeen visited the [Israeli] Hadassah Hospital yesterday [May 5, 2013]. This is the first visit by a Palestinian minister to one of the most important Israeli hospitals, according to the hospital's announcement. Minister Abdeen who was accompanied by a delegation that included senior officials of the ministry and of the PA, met with the Director of Ein Karem Hadassah Hospital, Yuval Weiss. He [the minister] visited Palestinian patients being treated in the hospital, and he distributed gifts. [Hospital director] Weiss said: 'We relate to patients without regard to nationality and religion. We treat Muslims, Christians, Jews, and other nationalities without bias, and 30% of the patients who are children are Palestinians.' He went on to say: 'We've begun cooperating with the Palestinians. We now train teams of physicians from the hospital in Beit Jala in the southern West Bank, to treat cancer among children. We have about 60 Palestinian medical interns and specialist physicians who will be returning to the [Palestinian] Authority areas to carry out their work.'"

[*Al-Hayat Al-Jadida*, May 6, 2013]

6. CHILDHOOD IN GAZA

The Palestinian assault on children, however, does not end with Hamas` targeting of Israeli children. The exploitation of Gazan children as weapons of war begins from birth. Pictures abound of Gazan babies dressed as suicide bombers and brandishing arms. From birth, the children of Gaza are taught violence and hatred. This incitement is ongoing.

Children and teenagers in Gaza's educational system undergo basic military training in the schools and summer camps. The Commission`s attention is drawn to the photographs of Gazan children in military uniform being taught the use of firearms placed in Appendix A at the end of this submission. Hamas gives paramilitary training to teens in high school and to younger children in summer camps. Gazan children are an integral part of Hamas`s tactics and strategy (propaganda effect of children dead, both in numbers and pictures).

Hamas uses children to transport weaponry and to perpetrate acts of violence against Israeli soldiers and civilians. This includes grenade throwing, rock throwing, and stabbing attacks. Children are used as messengers and couriers, and as will be shown, in some cases as fighters. Children are also used for smuggling and digging tunnels. All the main political groups involve children in this way, including Fatah, Hamas, Islamic Jihad, and the Popular Front for the Liberation of Palestine.

Schools in the Gaza Strip teach nearly 37,000 students aged 15-17 how to operate Kalashnikov assault rifles and use explosives, according to a report in the British The Guardian.

According to the report, Hamas, which controls the Gaza Strip, was also considering creating a course for girls.

"It's unbelievable. Hamas has been cutting sports activities in schools for the past six years, saying there is no time in the curriculum, but now they find the time to have military training inside schools," Human rights organization Al Mezan member Samir Zakout told the Guardian.

As an example, the Commission`s attention is drawn to a recent television broadcast. A children`s show on Al-Aqsa TV, the official Hamas-run television channel broadcasting from Gaza, broadcast a segment calling for the mass killing of Jews.

In a clip of the children`s TV show "The Pioneers of Tomorrow," broadcast on May 2 2014, the host of the programme, a young girl in a hijab, interviews two very young children, one of whom says she hopes to be a police officer like her uncle Ahmad.

The host asks what policemen do, and, after establishing that they catch criminals, adds that “they shoot Jews, right?” and stresses to her young guest that “you want to be like him.”

“I will shoot the Jews!” the little child says.

“All of them?” the host asks.

“Yes,” the girl says

“Good,” the host answers.

In addition to turning children into combatants, Hamas deliberately place children at risk from Israeli counter-terror measures by co-locating weapons and terror infrastructure inside schools, hospitals and mosques. Worse, Hamas does not permit children to find shelter when provided with advance warning of an impending Israeli attack. Military forces adorn civilian dress and launch rockets and other weapons from within civilian areas to maximize loss, including death and injury to children, during retaliatory attacks, which are intentionally intended to increase the propaganda effect.

The most shocking aspect of this deliberate disregard for children’s lives, however, is the blind eye turned to it by the UN, the EU, and so-called human rights organizations.

The despicable exploitation and abuse of children as targets and weapons by Palestinians must end; the Commission needs to address these issues in general and the incitement in particular and to pronounce loudly and clearly on these tactics and strategies. Hamas will not end these abominable tactics so long as the UN, members of the international community, and NGOs continue to enable these atrocities.

It is submitted that silence on the part of the Commission will be interpreted by Hamas as approval.

7. GAZANS SPEAK OUT: HAMAS` WAR CRIMES

By: Mudar Zahran

Published: October 1st, 2014

The Commission is invited to take note of the following article on Gazans speaking out on Hamas`s war crimes, particularly with regard to children. The article is lengthy and set out in full in Appendix B at the end of this submission. Extracts referring to children are set out below and are self-explanatory.

“ 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.

“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.**”

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.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.”

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].

The article concludes: But perhaps the world should consider putting all the Hamas leaders on trial for crimes against the Gazan people.

It is submitted that the Commission cannot find and determine anything less than the findings demanded by the Gazan people, namely the culpability of Hamas for war crimes.

8. CHILDREN DIED BUILDING TUNNELS FOR HAMAS

In Paragraph 6, reference was made to Hamas` use of children for digging tunnels. The Commission is, or should be, aware of the extensive building of tunnels by Hamas. With regard to the children used by Hamas to build these tunnels, once again it is shown, as stated in the article on Hamas`s war crimes above, that **“ Hamas showed Gazans that it could not care less for their blood and their children.”**

Hamas responsible for the death of at least 160 Palestinian children in tunnels

By: The Institute for Palestine Studies

In recent years, Hamas has built extensive networks of tunnels. One network runs from the Gaza Strip to Egypt and is used for smuggling weapons, goods and terrorists. The second network runs from Gaza into Israeli territory and is used by groups of terrorists to cross under the border to carry out terror and kidnapping attacks against Israeli citizens.

In the summer of 2012, the sympathetic Institute for Palestine Studies (which describes itself as a private, nonprofit research institution located in Beirut, Ramallah and Washington) published a detailed report on Gaza's tunnel phenomenon.

The report documents Hamas' use of child labourers to build and operate the tunnels. It further reports that despite concerns by human rights groups, no significant attention was paid by Hamas to their safety.

The report cited Hamas officials who said that "at least 160 children have been killed in tunnels" and stated that "nothing was done to impede the use of children in the tunnels, where, much as in Victorian coal mines, they are prized for their nimble bodies". It is reasonable to assume that if at least 160 children were killed, many more would have been injured with some maimed for life. It is further reasonable to assume that in the past three years since the article was published many more have died.

Hamas is not only using child labor, but it is likely **child slavery**, in building its terror tunnel network. While the world worries obsessively over the child casualties of Israeli attacks on Hamas targets in Gaza, it has ignored Hamas's deliberate killing of Palestinian children.

The knowledge that Hamas used children to dig tunnels for smuggling and terror up to 25 meters below ground changes the moral calculation of the war significantly. Not only

does Hamas show extreme indifference to the lives of Palestinian children by using them as human shields, placing rockets in UN schools and the like, but it actively destroys those lives by sending Palestinian children to die underground in 19th century conditions.

Hamas killed children in the construction of its extensive tunnel network, built partly to carry out attacks on children across the Gaza border in Israel. No reasonable person can claim that Hamas cares for children, neither Palestinian nor Israeli.

Children have died at the hands of Hamas as they are used to help build terror tunnels, but the world's media have averted their eyes. It is submitted that the Commission needs to address this disgrace and investigate fully the facts surrounding the building of the tunnels, the man power and child power and make determinations accordingly.

This report clearly demonstrates that not only has Hamas built terror tunnels to attack Israeli children, but it is criminally responsible for exploiting and endangering the lives of children in Gaza to do so.

As detailed above, Gazan children were used to build an extensive network of tunnels. The irony is that the Gazan children were not permitted to shelter in these tunnels when warned by the Israelis that an attack on a Hamas military location was imminent. The Hamas high command, and probably their families and children, took shelter in the tunnels. This renders Hamas` conduct to be reprehensible morally and aggravated criminally. If such conduct is not a contravention of international human rights and humanitarian law, then such concepts are devoid of meaning.

The attention of the Commission is drawn as to how the UK acted in similar circumstances during world war two when London was "blitzed":





Since Operation Protective Edge, Egyptian security reports revealed that Hamas is spending \$140 million a year to again dig terror tunnels. According to the reports, no less than 12,000 Palestinians, **many of them children**, take part in the process of building the tunnels.

These tunnels are used to smuggle weapons and materials used to manufacture explosive devices, as well as transferring terrorists between Gaza and the Sinai. Egyptian security sources revealed that another special division belonging to Al-Qassam Brigades provides each tunnel with tons of cement so that it does not collapse. The entrances of the tunnels are excavated inside homes, mosques, and schools to prevent their exposure.

These reports may be the background to recent reports that the Egyptian authorities have decided to remove the city of Rafah on the borders with the Gaza Strip completely. In a news conference recently, the governor of North Sinai district Abd al-Fattah Harhour said it would be necessary to remove Rafah city completely in order to create a buffer zone on the borders with the Gaza Strip. "A new Rafah city is being established with residential zones appropriate to the nature and traditions of the residents of Rafah." He confirmed that engineering units have already been asked to start work on the new city. The governor's remarks came ahead of the second stage of evacuation of Rafah houses in preparation to create a buffer zone between Egypt and Gaza. According to the original plan, 1,220 houses were slated for evacuation. Some 2,044 families live in those houses.

This is a stop press situation: On or about 17 January 2015 Egyptian security forces [on Saturday 17 January 2015] uncovered an underground smuggling tunnel running from northern Sinai into Gaza that housed large quantities of mortar shells and explosives, Palestinian news agency Ma'an reported. Egyptian sources in Cairo told Ma'an that the approximately 1,200 meter-long tunnel's entrance **was located inside a house** on the Egyptian side of Rafah, on the eastern border of the Palestinian enclave. The tunnel reportedly had lighting and ventilation systems installed, as well as phone lines connected to central call centers, which allowed the Egyptian and Gazans to communicate and coordinate their shipments.

The Commission is invited to investigate the correctness of these reports and evaluate the likelihood of further conflict arising from Hamas` continued hostile actions and digging of terror tunnels, its acquisition of munitions and sources of funding, the apparent diversion of material intended for reconstruction to tunnel infrastructure and the reported continued use of child labour.

9. HAMAS ROCKET DEVELOPMENT AND LAUNCHING

During the development and training of Hamas` rockets, many Gazan children (and adults) were injured or killed by Hamas` rockets.

The Gaza-based Palestinian Centre for Human Rights details the circumstances of five such injuries:

According to investigations conducted by the PCHR, on 22 December, 2008, 3-year-old Myassar Mousa Wahdan, was injured in the abdomen and chest and her 5-year-old brother, Mohammed, was injured in the head by shrapnel from a locally produced rocket that was fired by members of the Palestinian resistance. The rocket fell on agricultural land near Beit Hanoun Agriculture College in the north to Beit Hanoun town in the northern Gaza Strip.

In another incident, on 21 December, 2008, Hanan Sohwait, 32, was wounded by shrapnel when a locally produced rocket exploded near her house in al-Zaytoun quarter in the west of Beit Hanoun Town. She was immediately taken to Beit Hanoon Hospital for treatment.

On 20 December, 2008, a locally produced rocket fired by Hamas fell near a group of children who were playing in a bystreet to the east of the industrial zone, west to Beit Hanoon town. Shrapnel from the rocket wounded two children. The two children were taken to the intensive care unit at Shifa Hospital in Gaza City, since their wounds were serious. The two children were identified as Sari Mana'a al-Sama'ana, 9, and Safi 'Eid al-Sama'ana, 8.

A Gazan boy was killed and a youth was seriously injured after an unknown object exploded towards the end of June 2014. The explosion occurred in a house in Al-Tufaha neighborhood in the city, killing a child, 13 years old, named Khalil Al-Ghsain, Palestinian medical sources said. Another young man in his teens, 18 years, was seriously injured in the blast. The blast extensively damaged the house.

Also, towards the end of June 2014, a young Gazan girl died and three family members suffered injuries in an explosion in Beit Lahiya in the northern Gaza Strip, medics said. Ashraf al-Qidra, a spokesman for the Ministry of Health in Gaza, said four people including two children in critical condition arrived at Shifa Hospital in Gaza City. Residents in the area said they believed the explosion was caused by a homemade rocket. Palestine Press Agency confirms she was killed by a rocket that fell on the family home.

In March 2014, a 2-year old boy was killed in Gaza when a rocket being built by Hamas exploded near his home. Also in March 2014, a 52-year old woman was killed by a rocket falling on her Gaza home.

There have been many other Gaza civilians killed by Hamas` rocket fire as well, many if not most of them children as reported by Palestinian sources. It would appear that 29 people have been killed in Gaza between January and June 2014 alone from terrorist explosions and rockets.

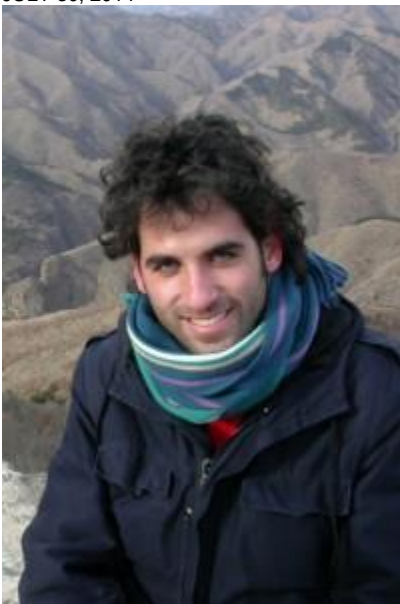
It is clear that even before Operation Protective Edge under conditions of “peace”, there was a pattern of many Gazan civilians, many of whom were children, being injured or killed and extensive damage being caused to property by “work accidents”.

There are several estimations, between 500 and 850, of the number of rockets launched by Hamas during Operation Protective Edge which fell and exploded in Gaza itself. It is highly probable that these rockets which fell and exploded in Gaza were responsible for extensive death, injury and property damage. Clearly, not all the children killed during Operation Protective Edge may be attributed to Israel`s military. Hamas was and remains criminally responsible for these deaths.

The Commission is invited to consider the following report.

Italian Journalist Defies Hamas: ‘Out of Gaza Far From Hamas Retaliation: Misfired Rocket Killed Children in Shati’

JULY 30, 2014



Gabriele Barbati, Jerusalem Correspondent for Radio Popolare Milano. Photo: GB.

Italian journalist Gabriele Barbati said he was able to speak freely about witnessing a Hamas misfire that killed nine children at the Shati camp, confirming the Israel Defense Forces version of events, but only after leaving Gaza, “far from Hamas retaliation.”

On Twitter, Barbati, Jerusalem Correspondent for Radio Popolare Milano, and a former reporter for Sky Italia, in Beijing, said, “Out of #Gaza far from #Hamasetaliation: misfired rocket killed children yday [yesterday] in Shati. Witness: militants rushed and cleared debris.”

He said, “@IDFSpokesperson said truth in communique released yesterday about Shati camp massacre. It was not #Israel behind it.”

Shortly thereafter, the IDF released aerial photos showing how a rocket from Gaza targeting Israel hit the Shati camp, run by UNRWA, and Al Shifa Hospital, which was a de-facto Hamas headquarters, against international rules of war.

Barbati said he was unable to speak about the Al Shifa hit, but he was certain that it was a Hamas rocket that hit the Shati camp, and a witness saw militants rushing to clean the debris. When Hamas made the area off limits to reporters, it is clear that it was cleaning the area from any debris that could show the truth.



An IDF diagram showing how four rockets from Gaza hit the sea, Israel, Shati and Al Shifa Hospital. Photo: IDF.

10. ROCKET LAUNCHING FROM CIVILIAN AREAS

Correspondents were witness to extensive launching of rockets from civilian areas. Rocket launch sites are legitimate military targets and such launching endangered civilians in the vicinity of such launching, including as always and probably intended, children.

The Japanese daily Mainichi's correspondent in Gaza reported on 21 July 2014: Hamas criticizes that "Israel massacres civilians". On the other hand, **it tries to use evacuating civilians and journalists by stopping them and turning them into "human shields"**.

On or about 16 July 2014, four Palestinian children playing on the Gaza beach were killed by an Israeli shell. The incident happened near the Al Deira Hotel, where many foreign reporters were staying. Washington Post reporter William Booth reported that it was not unusual for militants to launch rockets from sites near his hotel. AP reported that a witness who identified himself only as Abu Ahmed said the boys were scavenging for scrap metal when a first shell hit a nearby shipping container used in the past by Hamas security forces.

AUSTRALIA: On July 23rd 2014, Peter Stefanovic of Australia's Channel Nine News tweeted: "Hamas rockets just launched over our hotel, from a site about two hundred metres away. So a missile launch site is basically next door."

BRITAIN: Financial Times' Jerusalem correspondent John Reed noted that Hamas fired two rockets from a launch site "near Al-Shifa hospital, even as more bombing victims were brought in."

CANADA: On July 20th, Patrick Martin of the Globe and Mail reported that he saw a pair of long-range rockets fired from "very near a UN school filled with more than 1,000 people seeking refuge." He also noted that two gunmen were disguised as women; one of them had his weapon "wrapped in a baby blanket and held on his chest as if it were an infant."

Canadian Broadcasting Corp (CBC) reporter Derek Stoffel says outright what so many of his American colleagues won't: "**Hamas uses Palestinian civilians as human shields.**"

FINLAND: Finnish reporter Aishi Zidan confirms that a rocket was launched from a parking lot at Al-Shifa Hospital.

FRANCE: On August 2nd, a rocket was launched close to where a correspondent for France 24, inside Al-Shifa Hospital, was broadcasting. "Rockets were just shot right next

to where we are standing, so I'm not going to sit here, stand here very long, because usually there is a [IDF] strike just moments after this occurs," correspondent Gallagher Fenwick stated. The rocket was fired from about 160 feet away from a hotel where foreign reporters were staying. "This type of setup is at the heart of the debate," Fenwick observed. "The Israeli army has repeatedly accused Palestinian militants of shooting from within densely-populated civilian areas and that is precisely the type of setup we have right here. Rockets set up right next to buildings with a lot of residents in them." Palestinian children were playing near the rocket launchers.

INDIA: A reporter for NDTV (New Delhi Television) witnessed a rocket silo under a tent just outside his room in a hotel where he and his team were staying. The reporter, Sreenivasan Jain, then filmed the rocket being fired. The hotel is located in a dense residential neighborhood, close to a UN facility.

ITALY: On July 29th, Gabriele Barbati, an Italian reporter for Radio Popolare Milano tweeted: "Out of Gaza far from Hamas retaliation: misfired rocket killed children yday [sic] in Shati [a refugee camp]. Witness: militants rushed and cleared debris." Nine children died. Barbati followed his tweet with another: "IDF Spokesperson said truth in communiqué released yesterday about Shati camp massacre. It was not Israel behind it."

JAPAN: A correspondent based in Gaza for a Japanese daily wrote that Hamas "tries to use evacuating civilians and journalists by stopping them and turning them into 'human shields'... strategy is also aimed at foreign journalists." He recounted how some 20 journalists were blocked by Hamas from going through a checkpoint into Israel, after Hamas staffers falsely told them that the IDF had closed it. In fact, it appeared that the terrorists were plotting to have the reporters stuck there for (and right inside) a pending airstrike.

RUSSIA: RT (formerly Russia Today) correspondent Harry Fear was told to leave Gaza after he tweeted that Hamas fired rockets from near his hotel. In another tweet, Fear called the Al-Wafa rehabilitation hospital in Gaza "**the hospital with human shields.**"

SPAIN: A Spanish journalist named Fernando Gutiérrez, writing for Diario Melilla Hoy tweeted on August 9th that "Hamas launched a battery of rockets from the press hotel. What was their intent? To provoke Israel to kill us?"

The cumulative effect of the above exposure of Hamas rocket launching in civilian areas is almost beyond belief. Israel is entitled to both prevent such rocket launching taking

place as well as destroying such rocket launching sites after the firing of rockets. The rocket launching sites are legitimate military objectives irrespective of the presence of civilians, including children.

Should civilian casualties result from these Israeli attacks, including the death of or injury to children, sole and entire responsibility lies with Hamas, the party who deliberately and with intent placed the civilians, including children, at risk. It is submitted that Hamas` use of its civilians, including children, as human shields is a war crime and the Commission is invited to make its findings accordingly. It is further submitted that each such firing of rockets from civilian locations constituted separate war crimes.

11. HAMAS USE OF CHILDREN AS HUMAN SHIELDS

In the picture below, a Hamas terrorist can be seen hanging two little children on a fence near a rocket launching base in order to prevent the Israeli forces from attacking the launching base.



IDF soldiers have reported that while fighting in Gaza said **they encountered 13- and 14-year-old Palestinian children running at them wearing explosives-laden suicide-bomber belts.**

Soldiers have given shocking testimony regarding Hamas' use of young children as human shields. Soldiers have reported that repeatedly they have seen young children in Sheijaya, Gaza, sent out into the streets with guns to try to attack IDF troops. On one occasion, it was reported that **terrorists had run at IDF soldiers with a gun in one hand and a baby in the other**, apparently in hopes that the soldiers would see the child and hold their fire. If soldiers fired, the child's death could be used as propaganda against Israel. There were reports that women, too, were being used as human shields.

Hamas's Interior Ministry published an order that residents of Gaza ignore Israel's warnings of imminent air strikes and remain in their houses. Israel's policy of warning is intended to give civilians time to flee and seek shelter. Through this policy, Hamas deliberately and intentionally endangered the lives of children.

A senior UN official, John Ging, confirmed that Hamas terrorists "fired their rockets into Israel from the vicinity of UN facilities and residential areas," thereby putting UNRWA staff and students in harm's way **and used Gaza's civilians as human shields.**

Hamas spokesman Sami Abu Zuhri admitted on Al-Aqsa TV that Hamas encouraged civilians to act as human shields: "People are reverting to the (human-shield) method, which proved very successful in the days of martyr Nizar Riyan. This attests to the character of our noble, Jihad-fighting people, who defend their rights and their homes with their bare chests and their blood. The policy of people confronting the Israeli warplanes with their bare chests in order to protect their homes has proven effective against the occupation. Also, this policy reflected the character of our brave, courageous people. We in Hamas call upon our people to adopt this policy, in order to protect the Palestinian homes."

Secretary of State John Kerry condemned Hamas practice of using innocent lives of civilians as shields.

Attached as Appendix C is the Washington Post's editorial dated about the first week of hostilities confirming Israel's use of sophisticated technology, including targeted text messages and dummy warning missiles, to minimize civilian casualties and specifically emphasizing Hamas' "despicable tactics" to maximize casualties which by definition includes children.

It is submitted that using children as human shields and placing children at risk, as practiced by Hamas, cannot be described as anything but enlisting these children to participate actively in hostilities and is therefore a war crime.

12. WAR CRIMES COMMITTED BY HAMAS: THE USE OF HUMAN SHIELDS

I. The Principle of Distinction

A core principle of the law of armed conflict is the 'principle of distinction' - the obligation imposed on each party to the conflict to ensure at all times that a distinction is made between combatants and civilians. This principle is reflected in Article 48 to the Additional Protocol I of the Geneva Conventions:

In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.

This principle which is widely accepted worldwide requires parties to a conflict to ensure the protection of civilians on both sides. Accordingly, **a party to the conflict is prohibited from using its own civilians as shields**. As the Secretary General's report on the 1993 attack on UN forces in Somalia noted:

No principle is more central to the humanitarian law of war than the obligation to respect the distinction between combatants and non-combatants. That principle is violated and criminal responsibility thereby incurred when organizations deliberately target civilians or when they use civilians as shields or otherwise demonstrate a wanton indifference to the protection of non-combatants.¹

II. War Crimes Committed by Hamas

Hamas, a terrorist organization which is designated as such by many states including the United States and the European Union, has ascribed to an ongoing strategy of purposefully and blatantly violating the most fundamental principles of the laws of armed conflict including the law of distinction outlined above.

The laws of armed conflict clearly establish that parties to the conflict are prohibited from using civilian population or civilian objects for the purpose of shielding military objectives,

¹ The Secretary General report pursuant to paragraph 5 of UN Security Council resolution 837 (1993) S/1994/653.

The presence or movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks.²

In addition the very presence of military objectives in densely populated areas is explicitly prohibited under the rules of law. Such a requirement is set forth in Article 58 of Additional Protocol I of the Geneva Conventions which requires all parties to a conflict to "...avoid locating military objectives within or near densely populated areas".

In flagrant violation of the laws outlined above Hamas' deliberate placement of military objects (command centers, weaponry including rocket launching pads and the like) in the heart of civilian areas is a serious violation of international law. For over 14 years Hamas has fired rockets from schools and mosques³; has used ambulances to transport weapons and terrorists⁴; has commandeered private homes for use as command centers and for carrying out attacks while the resident family is prevented from leaving⁵. These rockets were, almost without exception, aimed at and intended for civilian targets. Israel was, and remains, justified and legally entitled to take such action as Israel deems necessary to protect its civilian population and to put an end to the rocket launching and mortar firing, including attacking all military objectives in the Gaza Strip.

During Operation Protective Edge, Hamas used the civilian population, specifically including children, as human shields, as the organization at the least, tried to encourage, and at the worse, compelled, civilians to ignore IDF advanced warnings of attacks. These are all severe violations of international humanitarian law, which amount to war crimes for which Hamas bears full responsibility.

And as international law expert Yoram Dinstein wrote:

² Article 51 of Additional Protocol I of the Geneva Conventions.

³ Under Article 53 of the Additional Protocol I of the Geneva Conventions, "...it is prohibited to use such objects in support of the military effort."

⁴ According to Article 12 of the Additional Protocol I of the Geneva Conventions, "Under no circumstances shall medical units be used in an attempt to shield military objectives from attack."

⁵ Article 58 of Additional Protocol I of the Geneva Conventions requires all parties to a conflict to "...avoid locating military objectives within or near densely populated areas; take the other necessary precautions to protect the civilian population, individual civilians and civilian objects under their control against the dangers resulting from military operations."

Should civilian casualties ensue from an attempt to shield combatants or a military objective, **the ultimate responsibility lies with the belligerent placing innocent civilians at risk.** [*Emphasis added*]⁶

To sum up, Hamas thus violates the principle of distinction and the obligation to clearly distinguish itself from its own civilian population and to avoid the use of civilian population as human shields. By doing so, Hamas and the terror organizations in the Gaza Strip are clearly committing war crimes.

⁶ Dinstein, *Conduct of Hostilities under the Law of International Armed Conflict*, 2004 p. 131.

13. CHILDREN RECRUITED AS MILITARY OPERATIVES BY HAMAS

On a daily basis, AL Jazeera released the names of Gazans killed during Operation Protective Edge. The Hamas Ministry of Health also released information. Various groups such as the Meir Amit Intelligence and Terrorism Information Center were thus able to examine the names of Palestinians killed in Operation Protective Edge. This examination revealed several instances of children and teenagers serving as military operatives in the terrorist organizations. The examination also revealed instances in which the ages of Palestinian casualties were falsified by Gaza's Hamas-controlled ministry of health. For example, boys aged 15 and 17 were integrated into the terrorist operative networks; the age of a nine year-old terrorist auxiliary was listed as 24; and a terrorist operative in his twenties was listed as 13 years of age.

A 16-year-old Hamas operative was captured during a pre-dawn terror attack on southern Israel when he emerged from one of Hamas's cross-border tunnels along with several other operatives. For an operation of this nature intensive training would be required and it seems to indicate extensive use of children as military operatives.

Another feature of reports of children killed is their willful dishonesty. The Hamas Interior Ministry reported, repeated by the Palestinian Center for Human Rights, that 13-year old Ibrahim Jamal Kamal Nasser was killed on July 19. Unfortunately, the PCHR failed to coordinate its report with the report and poster of "13 year old" Ibrahim Nasser by the Abu Rish Battalions of the Al Aqsa Martyrs' Brigades:



This is the picture of the "13 year old" Ibrahim Nasser.

This is further proof that deaths are not correctly reported. This is an example of **Hamas informing reporters and NGOs that dead terrorists are children**, both to hide the number of terrorists killed and to inflate the number of children killed.

In the same attack, 15-year old brother, Wassim Slayiha, was killed. This time, the same PHCR reported him as a civilian - after all, he was only 15. But the Abu Rish Brigades published a martyr poster of their members killed - and Wassim appears on the upper right corner.



Yes, that is Wassim - **15 year old military operative**, but a "civilian" according to the PHCR. (Ibrahim Nasr is on the top left. The Terrorism Information center verified that Wassim was indeed 15.)

This is a case where **military operatives are reported as civilian**. Wassim indeed was a child, but was reported as a civilian since 15 year olds are too young to be fighters according to international conventions. His enlistment was a war crime.

[For the record: nine people on this poster are Abu Rish Brigade military operatives, and all nine were counted as a "civilian" in the PHCR report mentioned above - including three "children".]

The Commission needs to investigate Hamas` use of children as military operatives. **Enlisting child soldiers is a war crime in terms of Article 8(2)(b)(xxvi) of the Rome Statute of the International Criminal Court (ICC).**

The Commission needs to investigate Hamas` incorrect and indeed deceptive reporting and make findings and recommendations in this regard.

This Submission relates to the children of Gaza killed in Operation Protective Edge. It is submitted that the Commission will be unable to consider and investigate Gazan children killed in order to arrive at informed and valid conclusions without a true and correct list of all the children killed and without investigating the circumstances surrounding the death of each child separately.

14. THE HAMAS ROCKET ATTACKS ON ISRAEL.

The Palestinian UN representative stated that every missile fired from Gaza at Israel is 'a crime against humanity'

In an interview with Palestinian Authority TV, the diplomat detailed possible risks to the Palestinians of their joining the International Criminal Court

<http://www.israelnationalnews.com/News/News.aspx/182837#.VKPAnNKUe8c>

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

PA Official Admits: **Israel Follows International Law, We Don't**

The Palestinian Authority's envoy to the United Nations Human Rights Council (UNHRC) has said the PA has no hope of pressing charges against Israel in international courts - because Palestinian terrorist groups are far worse violators of international law themselves.

Since peace talks between Israel and the Palestinian Authority fell apart after the PA applied for membership in international agencies, many Palestinian factions and advocates have pushed for the PA to sign the Rome Statute and press charges against Israel in the International Criminal Court at the Hague (ICC).

But contrasting Israel's conduct during Operation Protective Edge to stop rocket fire from Gaza - in which Israeli forces always warned civilians before launching airstrikes - to the actions of Hamas and other armed groups, Ibrahim Khreisheh said any such move would surely backfire.

Noting concerns that Israel could launch legal offensives of its own against the PA should it sign up to the ICC, the presenter asked whether such a move would be realistic. The response was unequivocal. **"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,"** said Khreisheh.

He went on to claim that Israel, too, was guilty of such crimes during the conflict, and also mentioned contested claims about the legality of Israeli building in Judea and Samaria.

But he maintained that human rights abuses by Palestinian terrorist groups were far worse - particularly when it came to harming civilians.

In order to launch an appeal to the ICC, Khreisheh said, all "Palestinian factions" would need to commit, in writing, to refrain from targeting Israeli civilians - something which none of them are likely to do.

In stark contrast, he noted how "many of our people in Gaza appeared on TV and said that the Israeli army warned them to evacuate their homes before the bombardment."

"In such a case, if someone is killed, the (international) law considers it a mistake rather than an intentional killing, because (the Israelis) followed the legal procedures," he explained.

"As for the missiles launched from our side - we never warn anyone about where these missiles are about to fall or about operations we carry out."

Thus criminal responsibility for each and every child killed in Gaza after an Israeli warning lies squarely with Hamas.

Hamas Spokesman: "We Are Leading Palestinians to Death"

<http://www.idfblog.com/blog/2014/07/14/hamas-spokesman-we-are-leading-palestinians-to-death/>

The Hamas Spokesman was very vocal during Operation Protective Edge, which Israel launched to bring about a cessation of rocket fire from Gaza. **His words reveal the sinister way in which Hamas abuses its citizens by intentionally putting them in harm's way.** The spokesperson for Hamas in Gaza, Sami Abu Zuhri, said in an interview on Al Aqsa TV (Hamas' TV network), **"We aren't leading our people today to destruction. We are leading them to death."**

Abu Zuhri was clearly referring to Hamas' policy of using civilians as human shields. In the video, Abu Zuhri admits clearly Hamas' policy of human shields.

It is submitted that the Commission cannot arrive at conclusions or findings which differ or vary from those of the Palestinian representative to the very body which appointed the Commission or to those of the Hamas spokesman. Hamas through its spokesmen has admitted criminal responsibility for deaths resulting from Israel's actions to put an end to rocket launching.

The IDF said in a statement that during Operation Protective Edge 3,356 rockets were launched by Hamas against targets in Israel and another 356 at its ground forces operating inside the Gaza Strip.

The IDF assessed that 14.2% (about 475) of the rockets fired by Hamas during 'Protective Edge' unintentionally landed in the Gaza Strip:

Hamas` rockets are not meant to be used against ground forces. This means Hamas forces are aiming the rockets to hit IDF targets by pure guesswork, not the regular procedure they would have used for the rockets aimed at targets located within Israel itself. It would mean that they are aiming the rocket launchers very low - **at a height that would hit Gaza buildings when they miss their targets.** These buildings would not be anticipating any attack and would be inhabited by Gazans, both adult and children. The number of deaths from these rockets cannot be negligible. The amount of damage must be significant.

Given that the misfired rockets, both those fired at ground forces and those unintentionally landing in Gaza, landed randomly all over Gaza, the Commission cannot overlook or ignore these misfired rockets as possible significant sources for damage and deaths – perhaps as much as twenty percent of all such deaths, injuries and damage.

15. PROPORTIONALITY

Proportionality in international law is not about equality of death or civilian suffering, or even about [equality of] firepower. Proportionality weighs the necessity of a military action against the suffering that the action might cause to enemy civilians in the vicinity.

"Under international humanitarian law and the Rome Statute, **the death of civilians during an armed conflict, no matter how grave and regrettable, does not constitute a war crime, even when it is known that some civilian deaths or injuries will occur.** A crime occurs if there is an intentional attack directed against civilians (principle of distinction) or an attack is launched on a military objective in the knowledge that the incidental civilian injuries would be clearly excessive in relation to the anticipated military advantage (principle of proportionality)." — Luis Moreno-Ocampo, Chief Prosecutor, International Criminal Court.

"The greater the military advantage anticipated, the larger the amount of collateral damage -- often civilian casualties -- which will be "justified" and "necessary." — Dr. Françoise Hampton, University of Essex, UK.

Proportionality in the Law of War (Protocol to the Geneva Conventions) has nothing to do with the relative number of casualties on the two sides. During World War 2, the allies had no problem bombing the civilian towns of Essen, Bremen, Cologne, Dresden and Hamburg resulting in well over 100,000 German civilian deaths in these bombings alone. German civilian deaths during World War 2 amounted to about 3,000,000; Japanese civilian deaths amounted to about 500,000 with almost 75,000 immediate civilian deaths in Hiroshima alone. American civilian deaths amounted to about 3,000 and Great Britain, about 60,000.

None would consider the actions of Britain or the USA during world war 2 as war crimes despite the immense loss of life suffered by Germany and Japan.

Rather proportionality refers to the military value of a target (how much of an impact would the target's destruction have on the outcome of a battle or war) versus the expected threat to the lives or property of civilians. If the target has high military value, then it can be attacked even if some civilian casualties will result. Thus Nato's attack on Serbia resulted in about 1,500 civilian deaths (about 30% of whom were children by coincidence the same about 500 children killed as in Operation Protective Edge) and no Nato losses but is regarded as, and was found by the International Criminal Court to be, justifiable. What has to be "proportional" (the term is not actually even used in the relevant conventions) is the military value of the target versus the risk to civilians.

A more recent conflict resulting in the death of civilians is the American war in Iraq (2003-2011). The organization 'Iraq Body Count' (IBC) calculated that 162,000 Iraqis were violently killed by this 8 year war. Of those 162,000, 114,000 were civilians. **This means that circa 70.3% of violent Iraqi deaths stemming from the US invasion were deaths of civilians.** The UN states that in the most recent Gaza war, 70% of casualties were civilian (about 1,460 of 2,100). **That 70% figure is opposed by the Israeli government for being too high (it claims 50%), but even if accepted, the civilian casualty ratio would be no greater in Gaza than it was in Iraq.** For someone who criticizes Israel's killing of civilians, the above statistic might be explained with the idea of "disproportionate force": that America was under pressure and had to act as it did towards civilians, while Israel acted with more force than necessary. To examine that claim, we should look at the ratio of Iraqi to American casualties of war next to the ratio of Gazan to Israeli casualties of war. **In the Gaza conflict this summer, 30 Gazans died for every 1 Israeli that did. Of course, this seems like a curious statistic, but in the American war in Iraq, 36 Iraqis died for every 1 American that did** (the accepted number of Americans killed in the Iraq war is 4,475). In other words, the discrepancy in numbers of deaths is not unique to the Israeli-Gazan war, and was actually greater in the Iraq war.

On 24 November 2014, the UK Guardian reported on USA targeted strikes in Pakistan – 47 men targeted, not necessarily successfully, but 1,147 people killed, including about 250 children. <http://www.theguardian.com/us-news/2014/nov/24/-sp-us-drone-strikes-kill-1147>.

By any measurement, Israel's efforts to destroy missiles before they can be fired at Israeli civilians or immediately subsequent to such firing (to destroy the launcher), even if that places Palestinian civilians (and children) at risk, complies perfectly to the Laws of War. **There is no requirement that Israel place the lives of its own citizens in danger solely to protect the lives of Palestinian civilians.** Not only is there no evidence that Israel has intentionally targeted Palestinian civilians, the evidence is totally in favour of the most moral army in the modern era, when Palestinians are informed in advance of the intended target, by leaflet, by telephone, by "roof-knocking", a loud but non-lethal bomb and even aborting air strikes if, in the pilots judgment, civilian losses would be too great (see <http://www.idfblog.com/blog/2014/07/14/hamas-spokesman-we-are-leading-palestinians-to-death/>). Actually, the critics need to be more careful. As one writer, Will Slaten, has noted: "Israel is raising the standards of what can be expected in warfare". In any future conflict, any party not meeting Israel's raised standards may expect to receive an invitation to the International Criminal Court.

Clearly, no findings can be made against Israel based merely on absolute numbers or in the absence of an investigation into the military value of each action undertaken or even, as in the case of the bombings in Belgrade, due to error. Casualties by themselves are not evidence of intent.

Further, casualties by themselves are not evidence of violations of the laws of war. 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." Applying this standard to Gaza, it is Hamas who is in violation of the laws of war due to Hamas not only not taking any precautions to minimize civilian casualties but in fact actively endangering its civilian, including children, population.

Unfortunately, accidents in wartime are a fact of life. Thus in the Nato bombing of Belgrade in 1999, the Chinese embassy was bombed killing three Chinese diplomats and injuring 20 others. Another NATO bombing attack led to the deaths of at least three patients in a Belgrade hospital. Parts of the Dragiša Mišović hospital, near a barracks in the Dedinje district, were reduced to rubble. NATO admitted a missile aimed at an army barracks in the Dedinje district, which is close to the hospital, went astray. NATO planes hit an old peoples' home at a sanatorium in south-eastern Serbia killing at least 11 people.

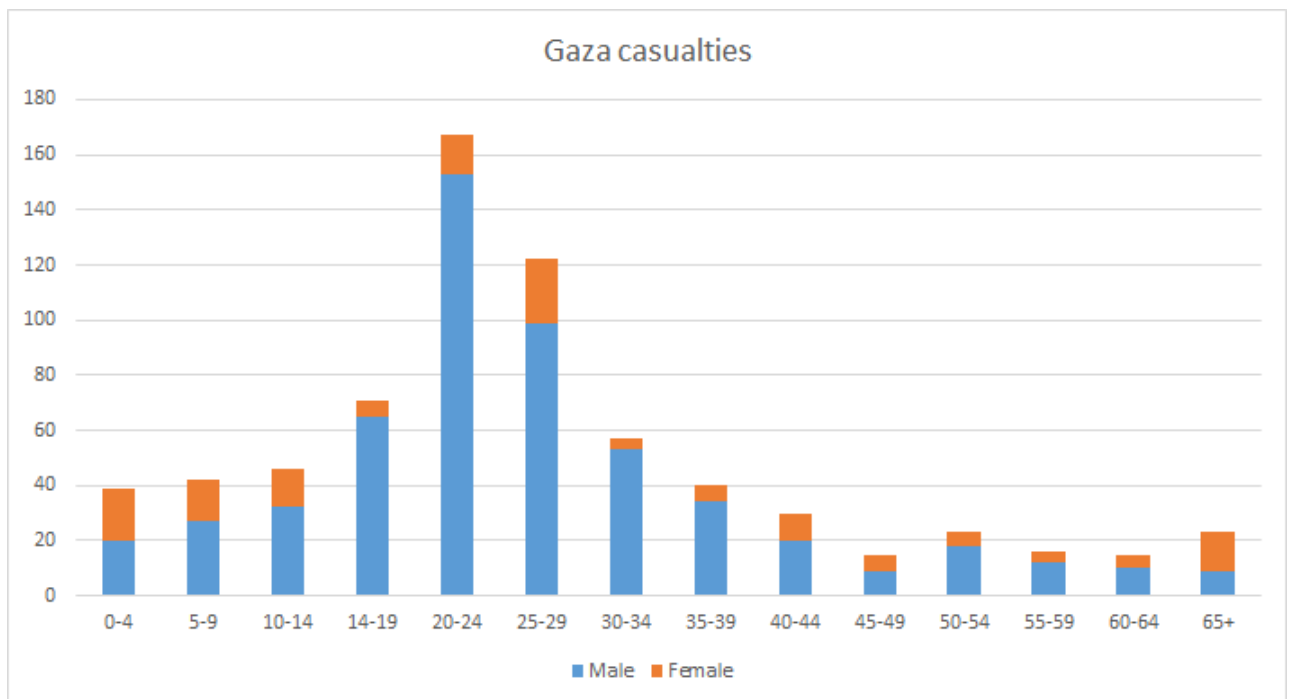
Thus the number of Gazan children killed is not indicative either of Israel's intent or the absence of value of the relevant military objective. As already submitted, the death of each child, the circumstances surrounding such death and the value of the military objective must be investigated separately.

For future conflicts, the Commission is invited to make recommendations on actions to be taken by attacking forces in civilian areas based on Israel's qualitative standards.

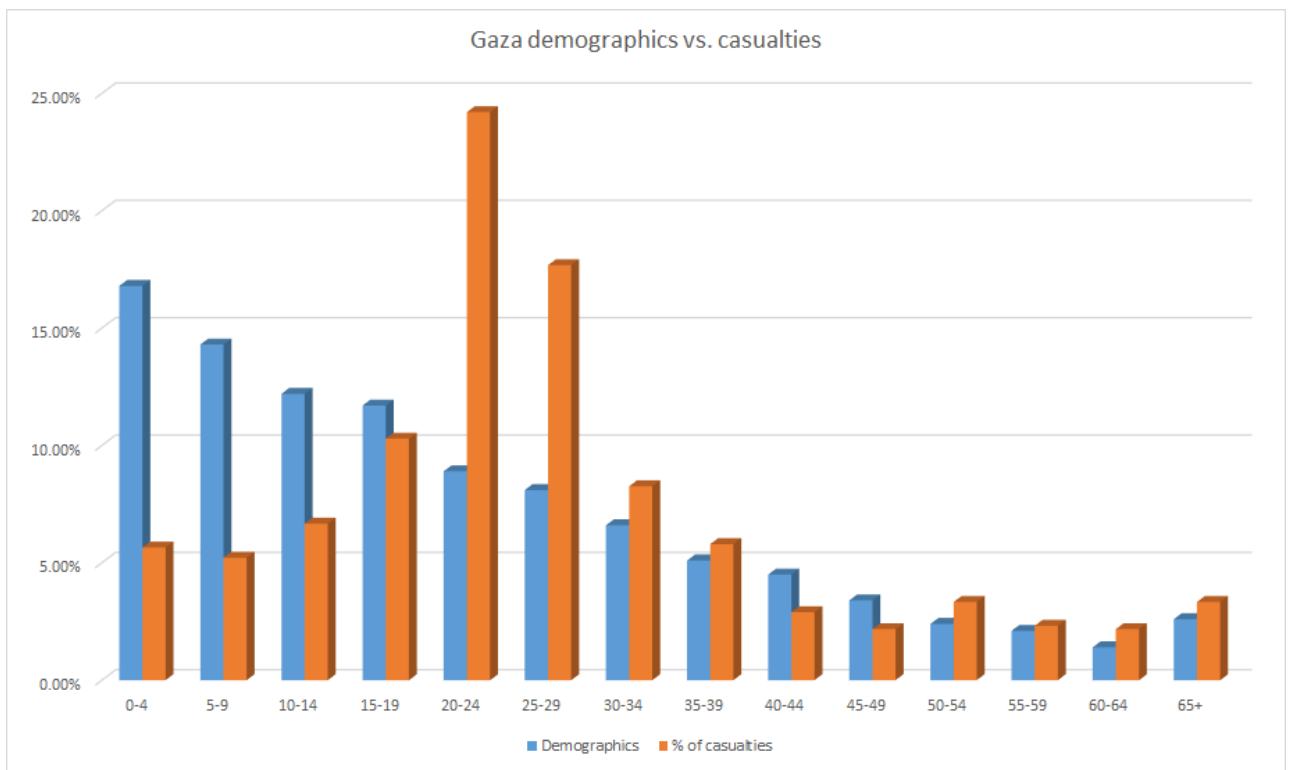
16. GAZA CASUALTIES BY AGE AND GENDER

Here is the demographic breakdown by age and gender, based on the Hamas ministry of health numbers (which as shown above are not always correct) of casualties after about 25 days of Operation Protective Edge showing a rough bell curve heavily favoring males in their late teens, 20s and 30s. The author is unknown.

In addition, attached please find Appendix D which also analyses fatalities. The numbers used in that article are similar to the numbers used in these bell curves which would appear to substantiate their correctness.



Here is the total casualties compared with Gaza's demographics.



Based on the above list of Gaza dead that included ages and genders, 88 out of 124 kids from ages 9-17 were boys - 70%. The ratio goes up the older the teens are, from 62% of those 9-11 to 79% of those between 15-17.

If IDF actions were "indiscriminate," or there was an intent to kill despite the absence of a valid military objective, these two sets of data would track closely together. Both children up to the age of about 15 and the male female mix are about 50% of the Gazan population. Yet, the casualties in age group 20-29 are more than double their proportion of the population. The male female ratio is even more apparent. Every age group between 10 and 64 has a clear preponderance of male casualties, indicating male participation in the conflict. **The 10-14 and 14-19 age groups male casualties clearly indicate the participation of boys in the military.**

In Appendix D, there is a detailed analysis of fatalities. "The demographic analysis of the fatalities in the Gaza conflict has limitations. It can't identify who is or isn't a combatant. **But the spike in fatalities among males starting in their late teens and peaking in their early to mid-twenties, and the divergence of the pattern of fatalities from the demographic pattern of the population, raises considerable doubt about claims that as many as 75% or more of the fatalities are non-combatants.**"

Based on an analysis of these numbers, I would also add: the divergence of the pattern of fatalities from the demographic male – female pattern of the population strongly reinforces the probability that male teens, ie children, were used extensively by Hamas

as combatants or support in areas of hostilities. Responsibility for these fatalities as war crimes lies solely with Hamas.

These tables eliminate the possibility of deliberate attacks on an innocent civilian population and on children. Such attacks would result in a 50-50 male to female distribution and a 50-50 distribution in each age group.

It should be borne in mind that these statistics include many people (including children) who were killed by Hamas rockets that fell short or secondary explosions from booby trapped houses, by Hamas launching rockets at Israeli ground forces and the like. The victims of these events are far more likely to reflect a distribution in line with the demographics, so a very high percentage of those killed by Hamas own actions would be children.

It is not known whether the number of fatalities reported by the PCHR include executions by Hamas. It has been reported that Hamas executed about 120 Fatah members as well as about 45 "Mossad agents". It is understood that additionally Gazans who expressed displeasure and caused disturbances were also summarily dealt with but this number is not known.

The Commission is invited to prepare its own tabulation of deaths by age and gender based on updated and correct data.

This submission relates to responsibility for the deaths of children and not necessarily the number of deaths of civilians and combatants. Nevertheless, it is submitted that the Commission must relate to figures provided by Palestinian or NGOs with extreme caution. In Operation Cast Lead, there was the same misinformation with the Goldstone Committee accepting Palestinian figures of 236 combatant casualties. A year later, Hamas admitted that the Israeli estimate of about 700 military casualties was correct. In an interview published in the London-based Arabic newspaper Al Hayat (November 1, 2010), Hamas interior minister Fathi Hammad stated that around 700 of the Gaza fatalities were Hamas fighters or militants from allied groups such as Islamic Jihad.

This is an important precedent to give greater credence to Israel's estimate of combatants' fatalities.

Appendix D - TIME: **How Hamas Wields Gaza's Casualties as Propaganda**

Hamas, PHRC and others cast Israel's military as indiscriminate and civilian deaths as disproportionate, but Hamas-affiliated fatality figures should be viewed with suspicion

<http://time.com/3035937/gaza-israel-hamas-palestinian-casualties/>

“We have seen this before. A similar dispute over casualty figures occurred during Israel’s “Operation Cast Lead” in the Gaza Strip in January 2009. The Israelis contended that the majority of the fatalities were combatants; the Palestinians claimed they were civilians. The media and international organizations tended to side with the Palestinians. The UN’s own investigatory commission headed by Richard Goldstone, which produced the Goldstone Report, cited PCHR’s figures along with other Palestinian groups providing similar figures. Over a year later, after the news media had moved on, Hamas Interior Minister Fathi Hammad enumerated Hamas fatalities at 600 to 700, a figure close to the Israeli estimate of 709 and about three times higher than the figure of 236 combatants provided by PCHR in 2009 and cited in the Goldstone Report.”

17. CONCLUSION

In conclusion, it is submitted:

The Moslem Brotherhood, which includes Hamas as stated in Hamas` charter, has a cavalier attitude towards the safety, care and welfare of children and deliberately use children in order to achieve their objectives.

Hamas as an integral part of its tactics and strategy, intentionally uses Gazan children both as weapons and as victims including in the building of tunnels, as part of its military and as human shields, thus placing Gazan children in danger.

Before any adverse findings can be made against Israel with regard to the death of children, the Commission needs to identify which children were killed by Hamas` rockets or which children took part in Hamas` military operations.

Before any adverse findings can be made against Israel with regard to the death of children, who died as a result of Israel`s actions, under the laws of proportionality the Commission needs to investigate each and every such death separately to determine whether the incidental civilian injuries were clearly excessive in relation to the anticipated military advantage of that specific attack.

Before any adverse findings can be made against Israel with regard to the death of children, who died as a result of Israel`s actions, whether the Palestinians were informed in advance of the intended target, by leaflet, by telephone, by "roof-knocking", a loud but non-lethal bomb or by any other means and the subsequent movements (or absence of movement) on the part of the deceased but failed, or were prevented, from taking shelter.

It is submitted that with regard to the death of Gazan children by Israeli action, no evidence whatsoever exists which beyond reasonable doubt indicates an Israeli "intent" to kill Gazan children indiscriminately and with no valid military objective.

To the extent that Gazan children may have been killed or injured in circumstances which cannot be determined, it is submitted that such deaths or injuries are to be attributed to accidents or unintentional mistakes which unfortunately form an integral part of any military conflict.

On the contrary, it is submitted that Hamas is criminally responsible for the death of the Gazan children by deliberately and callously not permitting Gazan children to shelter

upon receipt of an Israeli warning of impending military action, thus placing children in danger as human shields which is a war crime.

On the contrary, it is submitted that Hamas is criminally responsible for the death of the Gazan children by deliberately using children as part of its military infrastructure and particularly as military operatives.

On the contrary, it is submitted that Hamas is criminally responsible under relevant international laws by recruiting and enlisting children under the age of 18 into its military.

On the contrary, it is submitted that Hamas is criminally responsible for the death of the Gazan children by indiscriminately firing rockets at Israel's ground forces and firing at Israeli civilian targets from Gazan civilian areas, which is a war crime, fully aware that Israel would respond and in fact inviting retaliation.

On the contrary, it is submitted that Hamas is solely and entirely criminally responsible for the deaths of Gazan civilians, including children, by intentionally and deliberately locating rocket launching sites in civilian areas which is a war crime.

On the contrary, it is submitted that Hamas is solely and entirely criminally responsible for the intentional deaths of civilians, including children in Israel and the attempted murder of Israel's civilian population. Each of the approximately 3,700 Hamas rocket attacks and the many mortar attacks between 8 July 2014 and August 2014, targeting Israeli civilians, including without distinction, children, without a legitimate military objective, constituted a separate and distinct war crime as agreed and stated by the Palestinian representative to the United Nations Human Rights Organisation.

On the contrary, it is submitted that Hamas is solely and entirely criminally responsible for the intentional attempted murder of Israel's civilian population between 1 January 2014 and 6 July 2014 and indeed for each and every rocket launched and mortar fired since 2005. Each of the approximately 350 Hamas rocket and mortar attacks between 1 January 2014 and 7 July 2014, before Operation Protective Edge commenced, and all rockets launched and mortars fired since 2005 targeting Israeli civilians, including without distinction, children, without a legitimate military objective, constituted a separate and distinct war crime.

On the contrary, since it is the Commission's intention to investigate all violations of international humanitarian law and international human rights law in the specified territories in the context of the military operations conducted since 13 June 2014, WHETHER BEFORE, DURING OR AFTER, the Commission must investigate the

death of children in the digging of tunnels and to hold Hamas criminally responsible for their deaths which in the circumstances, may well be deemed to be murder.

The Commission must further investigate the conditions under which the boys were forced to work and the international humanitarian laws governing the employment and labour of children violated and to hold Hamas criminally responsible for these violations.

The Commission is invited to make findings on the deception carried out by Hamas by providing false information relating to its casualties, specifically between civilians and combatants and between adults and children and as with regards circumstances surrounding such casualties (such as Hamas own rockets falling on Gazan targets) in the knowledge of the propaganda effect of such deception.

It is clear and without doubt that the party solely and entirely criminally responsible for the death and injury to the children in Gaza is the party that placed the children at risk, is the party that enlisted children as military operatives, is the party that used children as part of its military infrastructure, is the party that used civilians, including children, as human shields, is the party that used children to dig tunnels, in short, is the party that used both as tactics and strategy “despicable tactics” and that party is Hamas, and only Hamas.

To avoid endangering Gazan children and civilians, **all that is required is for Hamas not to launch rockets or fire mortars at Israel. It is really that simple** and it is submitted that the Commission needs to speak out on Hamas` use of force loudly and clearly.

It is averred that this Submission has established, beyond any reasonable doubt, that the sole and entire responsibility, culpability and criminal responsibility for the deaths of the children in Gaza lies with the controlling power and authority in Gaza. That controlling power and authority is Hamas.

18. APPENDIX A: THE CHILDREN OF GAZA





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19. APPENDIX B

Gazans Speak Out: Hamas War Crimes

By: Mudar Zahran

Published: October 1st, 2014

*This article originally appeared on the **Gatestone Institute** website.*

“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 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?"

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.”

About the Author: *Mudar Zahran is a Palestinian writer and academic from Jordan, who now resides in the UK as a political refugee.*

20. APPENDIX C

HAMAS IS PLAYING A DANGEROUS GAME WITH GAZAN LIVES

The Washington Post July 15 2014

SO FAR Hamas's military campaign against Israel has been a dismal failure. Thanks in part to Israel's Iron Dome anti-missile system, some 1,200 rockets fired at Tel Aviv, Jerusalem and other cities have caused only one Israeli death and a few other casualties. Attempted commando attacks via the sea and a tunnel were stopped short, and a drone that ventured into Israel was quickly shot down. Yet Hamas on Tuesday rejected an Egyptian cease-fire proposal that was supported by Western governments and the Arab League and had been accepted by Israel.

Why would Hamas insist on continuing the fight when it is faring so poorly? The only plausible answer is stomach-turning: **The Islamic movement calculates that it can win the concessions it has yet to obtain from Israel and Egypt not by striking Israel but by perpetuating the killing of its own people in Israeli counterattacks.** More than 200 people, including a number of children, have already died in Gaza; Hamas probably calculates that more deaths will prompt Western governments to pressure Israel to grant Hamas's demands.

So far, the tactic is not working. **Secretary of State John F. Kerry on Tuesday condemned Hamas for rejecting the cease-fire and "us[ing] the innocent lives of civilians . . . as shields."** But Hamas's commanders, who have burrowed into underground bunkers, appear to be doubling down. They are urging civilians who have left their homes to return, including some 15,000 who evacuated the northern part of Gaza in response to Israeli warnings. The cease-fire proposal was answered with a new barrage of missiles aimed at central Israel.

To be sure, the Israeli government of Benjamin Netanyahu has more incentive than Hamas to agree to a cease-fire, even though a majority of the Israeli public probably opposes it. Israel has little to gain from a prolonged conflict; a threatened ground invasion of Gaza would cause heavy casualties on both sides and, if it destroyed Hamas, leave Israel with the problem of finding a new government for the territory. Mr. Netanyahu is seeking the renewal of the truce that ended the last Israel-Hamas mini-war, in 2012. That would end attacks on both sides while allowing for a gradual opening of Gaza's border for civilian trade.

Hamas's rejection reflects its weakened position compared with two years ago. Egypt's military government has shut down most of the cross-border tunnels that Hamas

depended on for weapons as well as revenue, making it impossible for the Gaza administration to pay its workforce. The Islamists sought relief by forming a unity government with the secular, West Bank-based Fatah movement, but that did not lead to the payment of salaries or the reopening of the border with Egypt. Following the kidnapping and murder of three Israeli teenagers last month, Israel arrested dozens of Hamas's operatives in the West Bank, making their release another objective of the missile attacks.

To its credit, Israel has used sophisticated technology, including targeted text messages and dummy warning missiles, to minimize civilian casualties. But innocent people will inevitably be killed in attacks on launchers and missile factories that are purposely placed in densely populated areas. The right response of the international community is not to surrender to Hamas's despicable tactics but to continue insisting that it unconditionally accept the cease-fire proposed by Egypt.

21. APPENDIX D - TIME: HOW HAMAS WIELDS GAZA'S CASUALTIES AS PROPOGANDA

July 29, 2014

<http://time.com/3035937/gaza-israel-hamas-palestinian-casualties/>

The terrorist group casts Israel's military as indiscriminate and civilian deaths as disproportionate, but Hamas-affiliated fatality figures should be viewed with suspicion

An informational battle of competing messages directed at international audiences parallels the military fighting between Israel and Hamas. Accompanying a barrage of wrenching images are Palestinian fatality statistics alleging disproportionate numbers of non-combatants. These figures are crucial because they form the basis of accusations that Israel uses excessive and indiscriminate force.

Hamas, the terrorist group controlling Gaza, endeavors to turn Israel's military superiority to its own advantage by portraying the Israeli response to intense rocket and mortar fire as disproportionate and indiscriminate. In doing so, it hopes to turn public opinion against the Jewish state, as well as bolster its own standing at the expense of the Fatah-led Palestinian National Authority in the West Bank.

Fatality figures provided by Hamas and other groups should be viewed with suspicion. Not only do Israeli figures cast doubt on claims that the vast majority of fatalities are non-combatants, but a careful review of Palestinian sources also raises doubts.

Analyses of the casualties listed in the daily reports published by the Palestinian Center for Human Rights, a Gaza-based organization operating under Hamas rule, indicate that young males ages 17 to 30 make up a large portion of the fatalities, and a particularly noticeable spike occurs between males ages 21 to 27, a pattern consistent with the age distribution typically found among combatants and military conscripts. Palestinian sources attempt to conceal this discrepancy with their public message by labeling most of these young men as civilians. Only a minority is identified as members of armed groups. As a result, the PCHR calculates civilian fatalities at 82% as of July 26. PCHR provides the most detailed casualty reports of the various Palestinian agencies from Gaza that provide figures to the media and to international organizations like the UN. Its figures closely match those of the Hamas-run Gazan Health Ministry and other groups.

We have seen this before. A similar dispute over casualty figures occurred during Israel's "Operation Cast Lead" in the Gaza Strip in January 2009. The Israelis contended that the majority of the fatalities were combatants; the Palestinians claimed they were civilians. The media and international organizations tended to side with the Palestinians. The UN's own investigatory commission headed by Richard Goldstone, which produced

the Goldstone Report, cited PCHR's figures along with other Palestinian groups providing similar figures. **Over a year later, after the news media had moved on, Hamas Interior Minister Fathi Hammad enumerated Hamas fatalities at 600 to 700, a figure close to the Israeli estimate of 709 and about three times higher than the figure of 236 combatants provided by PCHR in 2009 and cited in the Goldstone Report.** Initially, playing to the international audience, it was important for Hamas to reinforce the image of Israel's military action as indiscriminate and disproportionate by emphasizing the high number of civilians and low number of Hamas combatants among the fatalities. However, later on, Hamas had to deal with the flip side of the issue: that Hamas's own constituency, the Gazan population, felt they had been abandoned by the Hamas government, which had made no effort to shelter them.

Scrutiny of Palestinian figures in the current conflict reveals a spike in fatalities among males ages 21 to 27 and an over-representation from ages 17 to 30. Data gleaned from the daily reports of the PCHR show that from July 8, the start of Israel's "Operation Protective Edge," through July 26, 404 out of 915 fatalities tallied from daily reports in which the ages were identified occurred among males ages 17 to 30, comprising 44% of all fatalities among a group representing about 10% of Gazans.

Expanding the age range from 17 to 39 and including those identified as combatants whose ages were not given increases that number to 551 fatalities, or 57% of all fatalities, even though this group represents less than one-sixth of Gazans. By contrast, adult female fatalities were less than 10% of total fatalities for a group that comprises a quarter of the total population.

Children, here defined as those under age 17, represented 194 of fatalities, 20% of the total. Any child fatality is a tragedy, but it is important to note that children make up over half the population of Gaza.

Despite the discrepancies noted, the substantial number of civilian fatalities leaves room for further scrutiny. In seeking an alternate explanation for the excess of young male fatalities, it might be posited that this reflects some behavioral feature of this group separate from combat-related activities. However, the shape of the fatality demographic makes this unlikely. What feature would explain the sharp increase from age 17, peaking at ages 22 to 25 and then declining rapidly after age 30?

A more plausible explanation is that the age demographic of the fatalities reflects the relative involvement of different age bands in hostilities. Of course, some of those in the most represented age-bands aren't combatants. However, balancing that, Palestinian and Israeli sources confirm that a portion of the fatalities over age 40 were senior Hamas or Islamic Jihad operatives targeted by Israel.

Furthermore, this overall breakdown of the number of fatalities doesn't address important issues like the portion of female and children casualties who were family members of targeted combatants who failed to heed Israeli evacuation warnings or were perhaps intimidated into remaining as "human shields."

The demographic analysis of the fatalities in the Gaza conflict has limitations. It can't identify who is or isn't a combatant. But the spike in fatalities among males starting in their late teens and peaking in their early to mid-twenties, and the divergence of the pattern of fatalities from the demographic pattern of the population, raises considerable doubt about claims that as many as 75% or more of the fatalities are non-combatants. In light of evidence—provided by groups that monitor Arabic language media (like the Middle East Media Research Institute)—that Hamas has instructed Gazans to describe anyone killed as a civilian, journalists have a responsibility to convey this uncertainty to their audiences and not present figures provided by Hamas and Hamas-affiliated sources as unqualified fact.