



General Assembly

Distr.: General
4 July 2013

English only

Human Rights Council

Twenty-second session

Agenda items 2 and 7

Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General

Human rights situation in Palestine and other
occupied Arab territories

Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1

Addendum

**Concerns related to adherence to international human rights and
international humanitarian law in the context of the escalation between
the State of Israel, the de facto authorities in Gaza and Palestinian
armed groups in Gaza that occurred from 14 to 21 November 2012***

* Reproduced as received.

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–3	3
II. Background	4–10	3
III. Issues of concern in relation to international humanitarian law and human rights law	11–45	5
A. Israel Defence Forces	11–31	5
B. Palestinian Armed Groups and the De Facto Authorities	32–45	11
IV. Displacement and other issues	46	16
V. Summary of findings.....	47–48	16

I. Introduction

1. This addendum to the High Commissioner's report to the Human Rights Council (A/HRC/22/35) contains issues of concern related to international humanitarian law and human rights law in the context of the escalation of hostilities of 14 to 21 November 2012 (hereinafter "the crisis"). With regard to the Israel Defence Forces (IDF), the following issues are addressed: killing of civilians; destruction of residences; destruction of other civilian property; attacks against media; destruction of medical facilities; destruction of other infrastructure; and humanitarian access. With regard to Palestinian armed groups and the De Facto Authorities (DFA), the following issues are addressed: indiscriminate attacks on Israel; the targeting of civilians; the launching of attacks from populated areas; rockets launched by Palestinian armed groups that fell within the Gaza Strip; and the execution of alleged collaborators.

2. It is noted that while the OHCHR office in the occupied Palestinian territory (OHCHR oPt) is mandated to monitor the human rights in the occupied Palestinian territory (oPt), it does not have such a mandate relating to the State of Israel. As such, OHCHR oPt is not in position to directly monitor or document the consequences of possible violations of international human rights and international humanitarian law within Israel.

3. It is also noted that OHCHR oPt shared its findings related to several cases contained in this addendum with the IDF, with a request for clarification and comments. No response was received at the time of writing.

II. Background

4. On 14 November at about 16:00, the IDF launched an airstrike targeting Ahmad El Ja'abari, the commander of the military wing of Hamas, the Izz El Din El Qassam Brigades. The attack marked the beginning of a new military operation by the IDF in Gaza - Operation Pillar of Cloud/Pillar of Defence.¹ A ceasefire was announced on 21 November.

5. The week leading up to the crisis was marked by flare ups of violence. Four Israeli soldiers were reportedly injured on 10 November, when Palestinian armed groups fired an anti-tank missile at an Israeli military vehicle on the Israeli side of the fence, east of Al-Shojayaa². From 10 to 12 November, the IDF targeted several locations in Gaza, including a residential neighbourhood in the east of Al-Shojayya, with strikes. In an incident on 10 November, four Palestinian civilians, including two children, were killed and over 40 Palestinians were injured. Prior to the crisis, according to Israel's Ministry of Foreign Affairs, Palestinian armed groups had fired approximately 800 rockets and mortar shells toward Israel between January and November 2012. Also according to the Israeli Ministry of Foreign Affairs, more than 120 such rockets were launched between 10 and 14 November 2012.³

¹ In Hebrew, the term "Pillar of Cloud" was used throughout the crisis. "Pillar of Defence" was introduced in English.

² Times of Israel, 10 November 2012, available from: <http://www.timesofisrael.com/army-jeep-reportedly-struck-by-anti-tank-missile-fired-from-gaza/>

³ Israel Ministry of Foreign Affairs website, available from: http://www.mfa.gov.il/MFA/About+the+Ministry/Behind+the+Headlines/BTH_Operation_Pillar_of_Defense_14-Nov-2012.htm

6. During the crisis, 174 Palestinians were killed in Gaza. At least 168 of them were killed by Israeli military action, of whom 101 are believed to be civilians, including 33 children and 13 women. Hundreds of persons were injured.⁴ Six civilians, including one woman and three children, may have been killed by rockets fired by Palestinian armed groups that landed in Gaza. In the context of the crisis, six Israelis, including four civilians, were reportedly killed, and 239 Israelis, including 219 civilians, were reportedly injured.⁵

7. According to the IDF⁶, Israel conducted over 1500 air strikes on Gaza. In addition, seven strikes by the Israeli Navy and 360 Mortar shells, all of which were recorded by the United Nations, were fired by Israel on Gaza. Palestinian armed groups fired 765 homemade rockets, 741 long-range Grad rockets, and 135 mortar shells at Israel during the crisis⁷. For the first time, a number of rockets fired from Gaza reached Tel Aviv and Jerusalem.

8. During the first few days of the crisis, IDF airstrikes appeared to be focused on open areas and fields that were allegedly used to launch rocket attacks against Israel, training sites belonging to the Izz Al-Din Al-Qassam Brigades, and other apparent military objectives. Thereafter, the IDF also targeted buildings and installations of the DFA, such as police stations, buildings housing civilian ministries, and other de facto governmental installations, objects which are *prima facie* considered civilian in nature. In the last few days of the operation, residential buildings and areas were also attacked, resulting in a significant increase in civilian casualties.

9. In gathering information during and after the crisis, OHCHR noted concerns with regard to the conduct of hostilities. Such concerns relate to all actors to the conflict. Throughout the crisis, airstrikes by the IDF targeted and damaged farmlands, residences, other civilian property, and other infrastructure, in the course of which civilians lost their lives and were injured. Hospitals and schools were damaged. Some of OHCHR's concerns related to the apparent failure of the IDF to respect the principles of distinction, proportionality and precautions, as required by international humanitarian law. In cases in which military objectives were targeted, the possible failure to take all necessary precautions, including by providing effective advance warning, and take all feasible measures to assess whether an attack would respect the principle of proportionality were

⁴ Figures vary according to the source. The numbers provided in the text refer to data compiled by OHCHR for which Palestinian and Israeli organizations provided data. According to a news article the IDF estimates the number of Palestinians killed at 177, including approximately 120 combatants, and the number of injuries including an unspecified number of civilians at 900. Gaza's ministry of health estimates the number of Palestinians killed at 189, and persons injured at 1526. No details on casualties of civilians are provided by the ministry of health. For IDF figures see Times of Israel, "After eight days of fighting, ceasefire is put to the test," available from <http://www.timesofisrael.com/several-casualties-in-explosion-in-central-tel-aviv/>. For de facto authorities' Ministry of health's figures see Ma'an News Agency on 27 December 2012, available from <http://maannews.net/arb/ViewDetails.aspx?ID=551374>.

⁵ Israel Ministry of Foreign Affairs, Israel under fire - November 2012, 22 November 2012, available from http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/Israel_under_fire-November_2012.htm. It is noted that, according to the Government of Israel, one Israeli civilian was located at a legitimate military objective. See http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Memorial/2012/GazaNov2012/Alayaan_Salem_al-Nabari.htm.

⁶ IDF website, available at: <http://www.idf.il/1283-17748-en/Dover.aspx>.

⁷ Figure was provided by UNDSS; also see website of Israel Ministry of Foreign Affairs, Israel under fire - November 2012, 22 November 2012, http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/Israel_under_fire-November_2012.htm.

noted. Concerns were also noted in relation to incidents in which media offices were destroyed and members of the media killed and injured.

10. While some of the projectiles fired by the Palestinian armed groups at Israel appear to have been directed at military objectives⁸, the indiscriminate nature of the vast majority of these projectiles raises serious concerns under international humanitarian and human rights law. Further, some Palestinian armed groups clearly or indirectly stated that their intended targets were civilians or large population centres in Israel,⁹ or objects that are *prima facie* civilian objects, such as Israel's parliament,¹⁰ in clear violation of international humanitarian law. Rockets were launched from densely populated areas, in contravention of customary international humanitarian law.¹¹ In addition, seven Palestinian men detained by the de facto authorities for allegedly having collaborated with Israel were summarily executed, in public, by unknown armed persons, in clear violation of international humanitarian and human rights law.

III. Issues of concern in relation to international humanitarian law and human rights law

A. Israel Defence Forces

11. OHCHR's findings raise a number of concerns with regard to the IDF's respect for the basic rules on the conduct of hostilities, including distinction, proportionality and precautions in attack.

1. Killing of civilians

12. In a number of cases, civilians who happened to be present in or passing through open areas and fields, locations that could potentially be used for rocket launches, were killed. The cases mentioned below raise the question of whether the IDF took all feasible measures to verify that their targets were military objectives, in line with the principle of distinction under international humanitarian law, which requires that *the parties to a conflict must at all times distinguish between civilians and combatants*. Under international human rights law these cases may constitute violations of the right to life.

13. On 19 November, a father, his 12-year-old daughter, and his 19-year-old son were allegedly killed by a drone missile while collecting spearmint in a farm adjacent to their house in Ahmad Yassin Street, north of Gaza City. Information collected by OHCHR indicates that the victims were farmers. In a similar case, on 21 November, an 84-year-old man working on his olive farm and his 14-year-old granddaughter were killed by a missile that landed in their farm, east of Khan Younis, southern Gaza Strip. Information received

⁸ Ezzedeen Al-Qassam Brigades website, available at: http://www.qassam.ps/statement-1471-Al_Qassam_Brigades_target_Israeli_Jet_Fighter.html

⁹ Ezzedeen Al-Qassam Brigades website, available at: http://www.qassam.ps/statement-1470-Al_Qassam_Brigades_Fire_M75_missile_at_Tel_Aviv.html, and Al-Quds Brigades, Military Communiqué, 15 November 2012, available from <http://www.saraya.ps/index.php?act=Show&id=24985> [Arabic internet edition].

¹⁰ Ezzedeen Al-Qassam Brigades website, available at: http://www.qassam.ps/statement-1469-For_the_First_Time_Al_Qassam_Brigades_Target_the_Kenesset.html

¹¹ The rule is identified in International Committee of the Red Cross, Customary International Humanitarian Law, vol. I, Jean-Marie Henkaerts and Louise Doswald-Beck, eds. (Cambridge University Press, 2009), rule 23.

by OHCHR indicates that in neither case were residents warned prior to the attack, and that no militant activities were carried out from the attacked locations throughout the crisis.¹²

14. On 19 November, two civilians, including a boy, were walking next to a field on a paved road in Khan Younis, southern Gaza Strip, when a missile hit them, killing them instantly. A three-year-old girl was injured in the same incident. Witnesses reported that that airstrike was the only one that occurred in the area during the crisis. On the same day, two farmers and a school guard were travelling in a truck reportedly carrying tomatoes in Dier El Balah, central Gaza Strip, when an Israeli airstrike hit their truck, killing the three of them. Information gathered by OHCHR indicates that the IDF had been launching attacks on the surrounding areas prior to this attack.¹³ On 21 November, an 8-year-old boy was killed and five other children as well as an 80-year-old man were injured, in an airstrike in Zaitoun area, Gaza City. The children were reportedly playing in the privately-owned courtyard when the missile hit.

15. On at least one occasion, access of ambulances to victims was not granted for hours. On 20 November, two 16-year-old boys were killed, allegedly by a drone missile, while hunting birds in an open area located approximately 700 meters away from the fence, east of Rafah, southern Gaza Strip. Relatives of the victims reported that the IDF did not grant access to the ambulances to retrieve the bodies for at least five hours.¹⁴ International humanitarian law prohibits the IDF from arbitrarily denying the access of medical staff to people injured in hostilities. On 17 November, the IDF targeted a 31-year-old civilian in Rafah, southern Gaza Strip, who was attempting to rescue three persons who had been hit and killed by a missile that struck a farm just a few minutes prior.¹⁵

2. Destruction of residences and incidental killing of civilians

16. The IDF targeted residential buildings and properties during the last few days of the crisis, with some reports estimating that a total of 382 residences were destroyed or sustained severe damages due to Israeli attacks.¹⁶ In certain cases, attacks on residences resulted in casualties among civilians. The targeting of residences is a violation of the principle of distinction as they are civilian objects. However, if a residence is used in a way that makes an effective contribution to the military action and whose destruction or neutralisation offers a definite military advantage, then it loses its civilian character, qualifies as a military objective and is liable to attack. A member of an armed group present in the residence can be a legitimate military objective. Nevertheless, attacks in such circumstances still have to respect the rules on the conduct of hostilities, especially those regarding distinction, proportionality and precautions in attacks. Residences that have been vacated, even following warnings, by members of an armed group – if these members were the military target, no longer constitute a legitimate military objective.

17. On 18 November, an Israeli air strike without prior warning hit a three-storey house belonging to the Al-Dalou family in Al-Nasser neighbourhood, central Gaza City. The airstrike killed 12 people, five of whom were children and four were women. Ten of those killed belonged to one family. Israel alleged that a member of the Al-Dalou family was

¹² OHCHR monitored the two cases.

¹³ OHCHR monitored the case.

¹⁴ OHCHR monitored the case.

¹⁵ OHCHR monitored the case

¹⁶ Shelter Sector Gaza, available from www.sheltergaza.org; according to Al Mezan 52 houses were directly attacked, 35 of which including with smaller missiles for advance warning purposes, available from: http://www.mezan.org/en/details.php?id=15976&ddname=IOF&id2=7&id_dept=22&p=center_more

affiliated with the Izz Al-Din Al-Qassam Brigades.¹⁷ The location where the incident took place is a heavily populated area. Two of the persons killed were neighbours, while a number of other neighbours were injured.¹⁸ Even if one member of the Al-Dalou family was affiliated with an armed group, and therefore potentially a legitimate military target, an attack under the given circumstances with the large number of civilians present, would not meet the requirement of proportionality, i.e., the anticipated concrete and direct military gain from the attack would not outweigh the anticipated civilian loss.

18. In a similar case, on 19 November an Israeli airstrike hit a four-story house belonging to the Azzam family in Al-Shojayaa', east of Gaza City. This airstrike killed four persons, two women and two children, and injured at least 25 civilians, including 22 children. Witnesses stated that the IDF was likely targeting a member of the Azzam family, allegedly affiliated with the Islamic Jihad, who was reportedly living with his family on the second floor of the house. A phone call by the IDF to the alleged member of the armed group, perceived to be an advance warning, was immediately followed by at least two small missiles hitting the house, and shortly thereafter the house of the Abu-Zoor family, often referred to as warning missiles or "roof knocking". In the less than 10 minutes that reportedly followed, prior to the principal attack on the house, the alleged member of the armed group tried to inform family members and neighbours of the imminent attack. It is doubtful whether the 10 minutes provided constituted an effective warning. A number of Azzam family members were injured while evacuating their houses, though the majority of those killed and injured were members of the Abu-Zoor family who were residing in houses located at the backside of the targeted house. Only one out of several of Abu-Zoor family houses was warned.¹⁹ Given that the alleged member of Islamic Jihad was no longer in the house at the time of the attack, this incident raises questions regarding Israel's respect for the basic rule of distinction, if the objective of the attack was solely militants residing there, and also regarding the basic rules of proportionality and precautions if the house itself was the intended military objective.

19. On 17 November, a woman was killed by a missile while she was at home in Khuzaa, east of Khan Younis. On 18 November in Al-Shojaaya, east of Gaza City, a rocket hit a house killing a 19-year-old woman and seriously injuring her mother. A further three people who were in the area when the attack occurred were killed, while at least 14 people, including five children, were injured. The targeted house is located in a heavily populated area that is also full of commercial activities.²⁰ On 19 November, a father and his two children were killed when an Israeli missile hit their house, which was located in the centre of Jabalia, north of Gaza City. Seven members of the same family were injured. Also on 19 November, an airstrike hit a house east of Rafah City, southern Gaza Strip, killing one child and one adult. In these four cases, the houses were either completely destroyed or sustained serious damages, and no advance warning was given.²¹ OHCHR, while gathering information, was not able to identify any military objective that the IDF might have had in these cases, thus raising concerns with regard to possible violations of the principle of distinction and potentially also the right to life.

¹⁷ News24, 'No mistake' with Gaza family strike, 27 November 2012, available from: <http://www.news24.com/World/News/Strike-that-killed-Gaza-family-tragic-20121127>

¹⁸ OHCHR monitored the case.

¹⁹ OHCHR monitored the case.

²⁰ OHCHR monitored the case.

²¹ OHCHR monitored the three cases.

3. Destruction of other civilian property

20. During the crisis civilian properties other than residences, such as farms and businesses, also sustained damages or were destroyed as a result of IDF attacks. While some of these were the result of direct hits by airstrikes, others were the result of being located next to or close to targeted areas. This again raises questions whether the basic principles of distinction, proportionality, and precautions were fulfilled. The overall loss and damage inflicted on the agricultural sector is estimated at USD 20 million.²²

21. On 15 November, an Israeli airstrike hit a mosque in the Al-Zaitoun area, east of Gaza City. The airstrike completely destroyed the mosque, damaged a nearby house and injured one person. In addition, 17 camels from a neighbouring farm were killed and the remaining seven injured due to the airstrike. OHCHR did not obtain any information that would allow for the conclusion that a military objective was targeted. On 19 and 21 November, two warehouses belonging to Alaska production and distribution chocolate company, in Al-Tufah neighbourhood, eastern Gaza, sustained major damages when Israeli aircraft targeted neighbouring open areas. Both warehouses were fully stocked when the attacks took place.²³

22. The IDF regularly claimed during the crisis that open areas were being used to launch rockets, including from underground tunnels, and were therefore legitimate military targets.²⁴ Even if such claims were accurate, the IDF remains obliged to take all feasible precautionary measures to avoid or minimize damage to civilian objects.

4. Media

23. During the crisis the IDF attacked several media offices and journalists in Gaza City. Such attacks killed two cameramen travelling in a car marked as a press vehicle, and injured at least eight journalists. On 20 November at around 17.00, two cameramen from Al Aqsa TV station were targeted on Al-Shifa street, while in a vehicle marked with "TV," after having finished filming at Shifa hospital.²⁵ An Israeli Government spokesman described the two cameramen as "people who have relevance to terror activity," explaining that both Al Aqsa and Al Quds TV stations "are integral parts of terrorist military organizations."²⁶ The blog of the IDF stated that the two were " Hamas operatives" and cameramen for al-Aqsa TV, which "regularly features programming that encourages and praises attacks on Israeli civilians."²⁷ The IDF, however, did not provide information specifying that the two men were members of an armed group or that they were directly participating in the hostilities, raising serious doubts as to whether they had lost their protection as civilians.

24. On 18 November at around 1:30 in the morning, the IDF targeted the roof of the Shawa and Husari building in Gaza City with at least four missiles. The 11th floor office

²² OCHA, Occupied Palestinian Territory: Escalation in hostilities, Gaza and Southern Israel. Situation Report (as of 5 December, 2012, available from http://www.ochaopt.org/documents/ochaopt_gaza_sitrep_05_12_2012_english.pdf

²³ Case monitored and investigated by OHCHR.

²⁴ IDF website, Operation Pillar of Defense: Days 3-8, available from <http://www.idf.il/1283-17607-EN/Dover.aspx>

²⁵ oammed Ibrahim Ashour, Al Aqsa TV Station, interview on 4 December 2012.

²⁶ Reuters, Israeli airstrikes kill 3 Palestinian journalists, 21 November 2012. Available at: <http://finance.yahoo.com/news/israeli-airstrikes-kill-3-palestinian-journalists-182418648.html>

²⁷ IDF Blog, How Hamas and Islamic Jihad Use Journalism as a Cover for Terrorism, 29 November 2012. Available at: <http://www.idfblog.com/2012/11/29/how-hamas-and-islamic-jihad-use-journalism-as-a-cover-for-terrorism/>

situated below the targeted roof, where at least three missiles hit, was used by the Al Quds TV channel. Seven journalists were injured due to the attack, two of them seriously. No advance warning of the attack was provided. Later the same morning, at around 7:00, two missiles hit the 15th floor of the Shorouk media building housing, among others, the Al Aqsa TV channel.²⁸ One of the missiles hit the Al Aqsa TV antenna on the roof and badly damaged the studio itself, which had been evacuated following the attack on the Shawa and Husari Tower.²⁹ The IDF claimed that its strikes on the two media buildings targeted “ Hamas operational communication sites,” in particular communication equipment on the roof, in order “to disrupt the internal communications of Hamas who were using the equipment on these buildings to direct attacks against Israeli civilians”.³⁰ Lacking further justification by the IDF as to how the targets contributed to military action and how the attacks offered a military advantage, these attacks may amount to violations of international humanitarian law. In addition, such attacks could amount to violations of the right to freedom of expression. On 19 November at around 15:30, the third floor of the same building was hit in a separate attack. The strike, according to the IDF, targeted a group of Palestinian militants.³¹ The person killed in that strike was identified as a media officer with Saraya Al-Quds³², the military wing of Islamic Jihad. Two other persons were injured. According to various reports,³³ international journalists were told by the IDF to leave the building prior to this attack.

5. Destruction of medical facilities

25. During the hostilities, according to various sources,³⁴ 13 primary health care centres were partially damaged due to indirect shelling. Nine of these centres were administered by the DFA Ministry of Health (MoH) and four by UNRWA.³⁵ The Palestine Red Crescent Society Emergency Medical Services station, the Central Archive of the MoH, and the DFA Department of the Medical Commission also sustained damages.³⁶

26. At least three hospitals, including the Jordanian Military Field hospital in Gaza City, the Gaza European hospital and the Beit Hanoun hospital were hit in attacks by the IDF. On 19 November at 22:20, a missile hit the roof of the Jordanian Military Field hospital and penetrated two floors.³⁷ Nobody was injured, yet some oxygen pipes were damaged, thereby impacting on the hospital’s capacity to serve patients. On 20 November at 22:00, Beit Hanoun hospital in the northern Gaza Strip was reportedly hit by two artillery shells of

²⁸ Moanis Abu Nahil, interview on 27 November 2012

²⁹ Mohammed Ibrahim Ashour, Al Aqsa TV Station, interview on 4 December 2012.

³⁰ IDF, Operation Pillar of Defense: Days 3-8, 21 November 2012. Available at: <http://www.idf.il/1283-17607-en/Dover.aspx>

³¹ IDF, Operation Pillar of Defense: Days 3-8, 21 November 2012, available from: <http://www.idf.il/1283-17607-en/Dover.aspx>

³² Ibid, and Saraya Al-Saraya Al-Quds, available from: <http://www.saraya.ps/index.php?act=Show&id=25504>

³³ IDF, Operation Pillar of Defense: Days 3-8, 21 November 2012, available from: <http://www.idf.il/1283-17607-en/Dover.aspx> and PCHR, PCHR Strongly Condemns Targeting of Journalists in Gaza by Israeli Warplanes, 18 November 2012, available from: http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=9005:pchr-strongly-condemns-targeting-of-journalists-in-gaza-by-israeli-warplanes-&catid=145:in-focus

³⁴ World Health Organization (WHO), United Nations Relief and Work Agency (UNRWA), and the Primary Health Care (PHC) directorate of the de facto authorities Ministry of Health (MoH)

³⁵ WHO oPt, Initial Health Assessment Report, December 2012.

³⁶ WHO Situation Report, Issue 3, 27 November 2012. Available at: http://www.emro.who.int/images/stories/palestine/documents/WHO_Gaza_sitrep3_27_11_2012.pdf

³⁷ OHCHR monitored the case.

the type meant to illuminate the area. Neither exploded.³⁸ One of the shells hit the roof of the patient building, which was at that time accommodating around 15 patients, and then dropped into the hospital's yard. No injuries were recorded. However, the shells caused minor damages to water pipes and the roof. Neither of the hospitals was given an advance warning.

27. International humanitarian law provides that civilian hospitals may in no circumstances be the object of attack and that, if they are used to commit acts harmful to the enemy, such protection shall only cease "after due warning has been given, naming, in all appropriate cases, a reasonable time limit and after such warning has remained unheeded."³⁹ The attacks on the hospitals could therefore amount to violations of international humanitarian law.

6. Destruction of other infrastructure

28. On 20 November after midnight, a missile hit and caused severe damage to the headquarters of the National Islamic Bank in Gaza City, which occupies one and a half stories of a four-story building.⁴⁰ The IDF claimed that it had targeted "a bank used to finance Hamas operatives".⁴¹ However, the IDF did not provide any specific information on how the bank may have been making an effective contribution to military action and how the destruction of the building offered a concrete and direct military advantage. The management of the bank clarified that the DFA is one of its clients, and that the salaries of the DFA's officials are paid through the National Islamic Bank. The bank, however, claims not to be owned by the DFA. Based on the information gathered by OHCHR, the bank is a civilian object and was not a legitimate military target⁴².

29. Two stadiums, eight sports clubs, and the DFA's ministry of youth, sport and culture buildings were reportedly damaged or destroyed. The DFA ministry estimates that the damages to the sports infrastructure caused by IDF airstrikes are around USD 3,654,400⁴³. Information gathered by OHCHR suggests that the al-Yarmouk Stadium in Gaza City was attacked and extensively damaged during an airstrike on 21 November. The Palestine Stadium, also in Gaza City, was completely destroyed during at least three airstrikes conducted by the IDF on different days. While no warning specifically relating to the planned attacks on the stadium was provided by the IDF to the residents of the area, some residents left fearing further airstrikes. In the course of the airstrikes one person sustained a light injury and the showroom of a bamboo furniture company located next to the stadium and several cars parked in the street were damaged. The IDF claimed that it had attacked the Palestine Stadium "after receiving verified information of a launch from within the stadium". An Israeli army spokeswoman tweeted⁴⁴ that rockets had been fired from the stadium three days before Israel had bombed it. The IDF added that "in an effort to warn the residents and innocent bystanders and keep them away from strikes" they were at that moment, "controlling the radio stations within Gaza in order to deliver these messages to

³⁸ OHCHR monitored the case.

³⁹ Geneva (IV) Convention relative to the Protection of Civilian Persons in Time of War, Article 19

⁴⁰ Hazem Al-Husari, Islamic National Bank, interview on 7 December 2012.

⁴¹ IDF, Operation Pillar of Defense: Days 3-8, 21 November 2012, available from: <http://www.idf.il/1283-17607-en/Dover.aspx>

⁴² OHCHR monitored the case.

⁴³ Information supplied by the Ministry of Youth, Sport and Culture. 30 December 2012.

⁴⁴ Twitter, 19 November 2012, available from: https://twitter.com/AvitalLeibovich/statuses/270481383661645824?tw_i=270481383661645824&tw_e=media&tw_p=tweetembed

the civilians.⁴⁵ These messages were, however, general in nature, raising concerns as to whether they were effective in terms of providing advance warning on attacks. According to eyewitnesses interviewed by OHCHR, at least twice rockets were launched from a street south of the Palestine Stadium. The same sources noted that the stadium's fence was too high and the stadium ground still guarded by security guards, and therefore the stadium itself was not used to launch rockets. However, other sources indicated that rockets were indeed fired from the stadium.

30. Early morning on 21 November, Israeli airstrikes struck two bridges, damaging severely the coastal bridge connecting Gaza City and the central Gaza Strip, and the Al-Sikka bridge, connecting Al-Nussairat refugee camp and al-Mughraqa village. According to UNDP, the costs of rehabilitation of both bridges are estimated at 586,000 USD.⁴⁶ As a result of the attack on the Al-Sikka bridge, a main water pipeline, which supplies drinking water to residents of three camps, was damaged. This left around 20,000 people without running water for about a week.⁴⁷ OHCHR did not find any information to suggest that the bridges constituted legitimate military objectives.

7. Other humanitarian issues

31. The escalation of hostilities affected civilians' access to shelter, education, food, medical care, and utilities, thereby increasing humanitarian concerns. The partial or complete destruction of at least 382⁴⁸ residences displaced more than 2300 persons. A large number of these families were still being sheltered by their relatives at the time of writing.⁴⁹ At least 240 educational facilities were damaged. Twenty-five schools sustained major damages due to indirect shelling.⁵⁰ The functioning of some health facilities in Gaza was interrupted due to damages inflicted on them as a result of Israeli airstrikes, as noted. In addition to the three hospitals and 13 primary health care centres that suffered minor damages due to indirect shelling,⁵¹ Israeli airstrikes endangered the life of ambulance drivers transferring the injured and dead. Three drivers were injured when transferring victims and six ambulances sustained damages due to Israeli airstrikes.

B. Palestinian Armed Groups and the De Facto Authorities

1. Indiscriminate attacks towards Israel and targeting of civilians

32. After the killing of Al-Ja'abri by the IDF on 14 November, the Izz El Din El Qassam Brigades disclosed that they had attacked several "military sites" in Israel with 89 rockets, including long-range Grad rockets.⁵² Al-Naser Salah El Din Battalions, the military

⁴⁵ IDF, Operation Pillar of Defense: Days 3-8, 21 November 2012.

⁴⁶ Information obtained from UNDP on 23 December 2012.

⁴⁷ Ibrahim al-Aleja, communications officer at Gaza's Coastal Municipalities Water Utility (CMWU). See, The 'Flattening' of Gaza, Eva Bartlett, 25 December 2012. Available at: <http://www.ipsnews.net/2012/12/the-flattening-of-gaza/>. also, information obtained from , Joint Service Council of the local government ministry on 31 December 2012.

⁴⁸ Shelter Sector Gaza, available at www.sheltergaza.org;

⁴⁹ OCHA, Occupied Palestine Territory: Escalation in hostilities, Gaza and Southern Israel. Situation Report. November 26, 2012, available from http://www.ochaopt.org/documents/ochaopt_gaza_sitrep_26_11_2011_english.pdf

⁵⁰ Education Cluster, occupied Palestinian territory, Response to Gaza November Escalation, December 7, 2012.

⁵¹ Ibid.

⁵² Information Office of Ezzedeen Al Qassam Brigades, "In response to Israeli Massacres E.Q.B. target the Israeli military bases across Occupation Palestinian Land", Military Communiqué, November 14,

wing of the Popular Resistance Committees, on 15 November, disclosed that it had attacked Ashkelon, Israel, with two Grad rockets the prior day.⁵³ Also on 15 November, the military wing of the Islamic Jihad, Saraya El Quds (Al-Quds Brigades), revealed that it had targeted Tel Aviv with a Fajr 5 rocket, and claimed that the attack had inflicted damages to the city's communication network and forced the closure of Ben Gurion Airport.⁵⁴

33. Official Israeli sources reported that Palestinian armed groups fired over 1500 rockets at Israel in the period from 14 to 21 November.⁵⁵ A number of these rockets reached, for the first time, Tel Aviv and Jerusalem, targeting for example Israel's parliament⁵⁶. According to Israeli sources, in the context of the crisis a total of six Israelis, including 4 civilians,⁵⁷ were killed, and a further 239, including 219 civilians, were injured.⁵⁸ In one incident that took place on 15 November, three Israeli civilians, including a woman, were killed when a Palestinian rocket hit an apartment building in Kiryat Malachi, a town in Israel's southern district.⁵⁹ The same day Izz Al-Din Al-Qassam Brigades disclosed that they had fired, among other rockets, 5 Grad rockets at Kiryat Malachi.⁶⁰

34. On 20 November, a 33-year-old Israeli civilian was killed in a mortar and rocket attack on the Eshkol Regional Council, southern of Israel.⁶¹ At the time when the incident took place the victim was reportedly accompanying his cousin, who was at the given location working for a company building tents for soldiers, and was therefore located at a legitimate military objective. His cousin, who was slightly injured in the attack, explained that "[they] were working in the field when the alarm sounded. Everyone ran for cover - soldiers and workers - but [the victim] didn't make it in time and was hit", dying from his

2012, available from <http://www.qassam.ps/statement-1454->

[EQB_target_the_Israeli_military_bases_across_Occupation_Palestinian_Land.html](http://www.qassam.ps/statement-1454-).

⁵³ Population Resistance Committees, Military Communiqué, November 15, 2012, available from <http://www.qaweim.com/alhaq/index.php?act=Show&id=29086> [Arabic internet edition]

⁵⁴ Al-Quds Brigades, Military Communiqué, November 15, 2012, available from <http://www.saraya.ps/index.php?act=Show&id=24985> [Arabic internet edition]

⁵⁵ Israel Ministry of Foreign Affairs, Israel under fire - November 2012, November 22, 2012, available from http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/Israel_under_fire-November_2012.htm

⁵⁶ Izz Al-Din Al-Qassam Brigades, November 18, 2012, available from <http://www.qassam.ps/statement-1469->

[For_the_First_Time_Al_Qassam_Brigades_Target_the_Kenesset.html](http://www.qassam.ps/statement-1469-)

⁵⁷ According to the Government of Israel, one Israeli civilian was located at a legitimate military objective. See http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Memorial/2012/GazaNov2012/Alayaan_Salem_al-Nabari.htm.

⁵⁸ Israel Ministry of Foreign Affairs, Israel under fire - November 2012, November 22, 2012, available from http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/Israel_under_fire-November_2012.htm

⁵⁹ Ibid.

⁶⁰ Information Office of Ezzedeen Al Qassam Brigades, In an hour, Al Qassam Brigades fired 121 missiles, three Israelis killed, Military Communiqué, November 15, 2012, available from <http://www.qassam.ps/statement-1464->

[Al_Qassam_Brigades_fired_121_missiles_three_Israelis_killed.html](http://www.qassam.ps/statement-1464-)

⁶¹ Israel Ministry of Foreign Affairs, Israel under fire - November 2012, November 22, 2012, available from http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/Israel_under_fire-November_2012.htm

injuries.⁶² The same day, Saraya El Quds of Islamic Jihad announced that it had attacked Israeli cities, including Eshkol, with tens of rockets and mortars.⁶³

35. Numerous rockets also hit Israeli residential buildings. An estimated 80 Israeli houses were either destroyed or sustained damages as a result of Palestinian rocket attacks during the crisis.

36. While some projectiles were directed at military objectives, many, if not the vast majority of the Palestinian attacks on Israel constituted indiscriminate attacks. Such attacks violate international humanitarian law. Most rockets fired by the armed groups did not seem to be directed at a specific military objective. Furthermore, many Palestinian armed groups directly and indirectly indicated their determination to – and took responsibility for – attacks on Israeli civilians or large population centres in Israel. Such acts clearly violate international humanitarian law, namely the principle of distinction. In addition, such acts could also have the aim of spreading terror among the civilian population, which would further violate international humanitarian law. While certain Palestinian armed actors cited the limits of their military arsenals as a reason for failing to precisely attack military targets,⁶⁴ the military capacity of the conflicting parties is irrelevant to their duty, under international humanitarian law, to take all feasible measures to avoid loss among civilians and damage to civilian property.

2. Launching of attacks from populated areas and rockets launched by Palestinian armed groups falling within the Gaza Strip

37. Another issue of serious concern during the crisis was allegations related to rocket attacks launched by Palestinian armed groups from populated areas in Gaza. According to one source, a rocket attack was launched on 20 November from Al-Wahda Street, about 100 meters from the Shawa and Housari Building, which hosts several media offices. In another incident, a rocket attack was launched from a yard of a house near Al-Deira Hotel, central Gaza City.⁶⁵ Some of these rockets may have been launched from underground tunnels.⁶⁶ As noted above, eyewitnesses informed OHCHR that on two occasions rockets were launched from an area south of the Palestine Stadium in Gaza City, about 100 meters from a residential area. According to a witness, on both occasions following the day the rockets were fired by Palestinian armed groups, Israeli airstrikes targeted the Palestine Stadium, in one incident injuring a person.⁶⁷ OHCHR received first-hand information indicating that rockets were fired from areas close to civilian buildings in the east of Gaza City. According to this account, rockets were fired from a land full of orange trees in Al-Zaitoun, about 300 meters from several residential houses. In addition to damages inflicted to the orange trees as result of counter strikes by Israel, the rocket firing posed a serious risk to the nearby residents.

⁶² Israel Ministry of Foreign Affairs, Alayaan Salem al-Nabari, November 20, 2012, available from <http://www.mfa.gov.il/MFA/Terrorism->

[+Obstacle+to+Peace/Memorial/2012/GazaNov2012/Alayaan_Salem_al-Nabari.htm](http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Memorial/2012/GazaNov2012/Alayaan_Salem_al-Nabari.htm)

⁶³ Al-Quds Brigades, Military Communiqué, November 20, 2012, available from <http://www.saraya.ps/index.php?act=Show&id=25144>[Arabic internet edition].

⁶⁴ Ezzedeen Al Qassam Brigades, December 24, 2012, available from http://www.alqassam.ps/arabic/print_news.php?id=29989

⁶⁵ HRW, Gaza: Palestinian Rockets Unlawfully Targeted Israeli Civilians, December 24, 2012, available from <http://www.hrw.org/news/2012/12/24/gaza-palestinian-rockets-unlawfully-targeted-israeli-civilians>

⁶⁶ Ibid.

⁶⁷ See section II. f on Destruction of other infrastructure.

38. Launching attacks from populated areas constitutes a violation of customary rules of international humanitarian law, i.e. the obligation to take all precautions to protect civilians. By having done so, the civilian population's exposure to the inherent dangers of the military operations taking place around them was greatly heightened.

39. By 19 November, according to IDF sources, at least 99 rockets fired between 14 and 19 November from within the Gaza Strip had landed in Gaza.⁶⁸ On 14 November, a woman, an 11-month-old infant, and an 18-year-old adult in Al-Zaitoun were killed by what appeared to be a Palestinian rocket that fell short of Israel.⁶⁹ In addition, OHCHR received reports related to an incident in which two civilians, including a child, were killed, and five persons, including three children, were injured, as a result of what appeared to be a Palestinian rocket that fell short and hit a house in Al-Quds Street, near Khilla Gas Station, Jabalya, on 16 November. For its part, Izz Al-Din Al-Qassam Brigades underlined the limited military arsenal of Palestinian armed groups as a reason for failing to precisely attack military targets.⁷⁰ Yet the military capacity of the conflicting parties is irrelevant to the duty, under international humanitarian law, of these parties to take all feasible measures to avoid loss among civilians and damage to civilian property.

3. Summary execution of alleged collaborators

40. According to media reports, on 16 November at around 11:45 am, a 41-year-old man was shot dead in the street by a group of masked men.⁷¹ A sign was hung around the victim's neck by which the Izz Al-Din Al-Qassam Brigades accused him of collaborating with Israel in the killing of 15 Palestinian leaders.⁷² According to the Palestinian Independent Commission for Human Rights, the victim had been detained at the Gaza central prison in Gaza City since 26 December 2011 and was facing trial for treason in a military court.⁷³

41. On 20 November, masked militants shot six men dead in Nasser Street in Gaza City, for alleged collaboration with Israel. Again, the Izz Al-Din Al-Qassam Brigades claimed responsibility in a large handwritten note hung on a nearby electricity pole. The note claimed that the six men had provided information to Israel, thereby contributing to the killing of Palestinians.⁷⁴ The corpses of the six men were then subjected to abuse by dozens of people. Such abuse included being spit on and kicked in the head. The corpse of one victim was tied by cable to a motorcycle and dragged through the streets of Gaza City, accompanied by gunmen on motorcycles.⁷⁵ Contrary to the narrative provided by the Izz Al-Din Al-Qassam Brigades, the six men had been held at the DFA prisons for at least the last eighteen months, and had been issued death sentences by the military court.

⁶⁸ IDF's website, Watch: How terror groups endanger Gaza's civilians, November 19, 2012, available from <http://www.idf.il/1283-17668-en/Dover.aspx>

⁶⁹ Case monitored by OHCHR.

⁷⁰ Ezzedeen Al Qassam Brigades, December 24, 2012, available from http://www.alqassam.ps/arabic/print_news.php?id=29989

⁷¹ New York Times, Suspected Collaborator With Israel Killed on Gaza Street, 16 November 2012. Available at: http://www.nytimes.com/2012/11/17/world/middleeast/suspected-collaborator-with-israel-executed-in-gaza.html?_r=0

⁷² Id.

⁷³ ICHR, November Monthly report on human rights violations. Available at: http://www.ichr.ps/attachment/190/11%202012.pdf?g_download=1

⁷⁴ Hamas Today, 22 November 2012. Available at:

<http://www.hamastoday.com/arabic/?action=detail&id=9609>

⁷⁵ Id.

42. Death sentences can, under Palestinian law, only be implemented once they are ratified by the president of the Palestinian Authority.⁷⁶ In addition, the death sentences of at least four of the victims were pending appeal at the military court. The final judgment for one of the cases was expected for 20 November. The lawyer in charge of the three other appeals had already prepared submissions based on the lack of evidence and procedural irregularities.⁷⁷

43. While it is unclear whether or not the prison authorities handed the prisoners over to the armed men, prison authorities in any case have the duty to protect those in their custody, to ensure their security and to only hand them over to legally sanctioned government agencies, following court orders⁷⁸. Information received by OHCHR indicates that a "transfer order" was signed by prison officials and officials of the Internal Security Agency prior to the transfer of the alleged collaborators in an ambulance from Kateeba prison to the detention facilities of the Internal Security Agency, where they were reportedly held until their execution. A military judge and a senior member of Al-Qassam brigades were reportedly involved in identifying the seven alleged collaborators. The families of the seven executed persons were not informed of the transfer and only heard about the killings through radio and news reports.

44. On 21 November, the deputy chief of Hamas, Mousa Abu Marzouq, condemned the public execution of the six men⁷⁹, and said that "resistance" leaders "should use legal procedures to deal with suspected spies through the courts."⁸⁰ Mr. Abu Marzouq said the killings were "not acceptable at all" and that "those responsible for the killings must be held accountable," and such incidents "must never happen again." The DFA's spokesperson, Taher al-Nunu, and the Ministry of Interior reportedly stated that an investigation would be initiated to examine the "extra-judicial executions".⁸¹ OHCHR has not been able to obtain any information regarding any investigations being undertaken at the time of writing.

45. The public killing of the seven people constitutes both a violation of international human rights law and international humanitarian law. Information collected by OHCHR suggests that the seven men were taken out of the detention facilities with the knowledge, while possibly without the direct involvement, of the DFA, which failed to ensure their security. The killings, therefore, constitute a violation of article 3 of the Fourth Geneva Convention which prohibits the murder of persons taking no active part in the hostilities, by the DFA and armed groups, as far as they were involved in carrying out the killings, as well as of the right to life, including possible summary execution, by the DFA.

⁷⁶ Article 101(2) and 109 of Palestinian Basic Law

⁷⁷ Id.

⁷⁸ Palestinian Law on Rehabilitation and Reformation Centers, Article 7, 11, 38, and 59.

⁷⁹ Maan, Hamas leader condemns killings of accused collaborators, 21 November 2012. Available at: <http://www.maannews.net/eng/ViewDetails.aspx?ID=540443>

⁸⁰ <https://www.facebook.com/mousa.abumarzook>. The post in Arabic reads:

“القصاص من الجواسيس وخاصة من شارك في قتل قادتنا ومقاومينا ولكن لا يجوز معاقبه الناس الا من خلال القانون وبطريقة قانونيه أيضاً خاصة لمن يعطي الأمن والأمان للناس ويحمي الوطن بدمه الطريقة التي تم فيها قتل هؤلاء العملاء وصور ما بعد القتل غير مقبولة قطعاً ويجب ان يحاسب المسؤول عن ذلك ويجب ان لا يتكرر ذلك أبداً.”

⁸¹ Maan News, Hamas grants amnesty in reconciliation gesture, 25 November 2012. Available at: <http://www.maannews.net/eng/ViewDetails.aspx?ID=541812>. Also, YouTube, Hamas probes killing of 'collaborators', 11 December 2012. Available at: http://www.youtube.com/watch?feature=player_embedded&v=QCwEnIppUXg#!

IV. Displacement and other issues

46. The IDF's continued bombardment of the Gaza Strip during the crisis terrified and traumatized large segments of Gaza's population, forcing the large majority to seek refuge out of concern for their safety. Bombardments were particularly intensified in areas bordering the fence; e.g., northern Gaza Strip, including Beit Lahia and Beit Hanoun. Dozens of residences in these areas sustained damages to doors, windows, and roofs. Civilians reported that their children were traumatized and suffered psychological impacts, which manifested themselves in bedwetting, thumb-sucking, nightmares, and an acute sense of insecurity. A sense of disempowerment prevailed among parents, with many reporting feeling devastated that they were unable to protect their children. Many civilians were vulnerable to Israeli attacks, if their house or residential building happened to be located close to the target of an IDF attack. On 15 November, the IDF disclosed that it had dropped, on the Gaza Strip in the period from 15 to 17 November, 200,000 leaflets, advising residents to stay away from Hamas and other "terror organizations" facilities and locations "that pose a risk to their safety".⁸² Further, 20,000 phone calls⁸³ and 12,000 text messages⁸⁴ with the same warning were sent by the IDF during the crisis. No further details regarding the mentioned facilities and locations were disclosed, raising the question of how effective these warnings were. On 20 November, the IDF dropped further leaflets on a number of locations in the Gaza Strip urging civilians to evacuate their residences and move to Gaza City's centre. The leaflets were dropped on many areas, including Sheikh Ajlin, Tel Al-Hwa, Rimal South, Zeitoun, Sjaiya, Turkeman, SajiyaJadida, Shati, Al-Atatra, Beit Lahiya, and Beit Hanoun, and provided details on how to reach Gaza City.⁸⁵ These leaflets prompted a large displacement among the population. By 21 November, almost 12,000 people were staying in UNRWA schools.⁸⁶ Following the announcement of the ceasefire, almost all returned to their homes.

V. Summary of findings

47. The IDF, the DFA and Palestinian armed groups, in relation to numerous incidents that took place during the crisis as described above, failed in many instances to respect international law. In some cases, more information would be required to make a more specific assessment. Based on the information available to OHCHR, the IDF did not consistently uphold the basic principles of conduct of hostilities, namely, the principles distinction, proportionality and precautions. Further, the effectiveness, sufficiency and adequacy of precautions taken remains questionable in several cases.

48. Palestinian armed groups continuously violated international humanitarian law, by launching indiscriminate attacks on Israel and by attacking civilians, thereby disregarding the principle of distinction. The armed groups failed to take all feasible precautions in attacks, in particular by launching rockets from populated areas, which put the population at grave risk. Furthermore, several Palestinians were killed by rockets launched by the armed groups that fell short and landed in the Gaza Strip. In addition, seven alleged

⁸² IDF website, Operation Pillar of Defense: Days 3-8, November 21, 2012, available from <http://www.idf.il/1283-17607-en/Dover.aspx>

⁸³ IDF website, IDF seeks to minimize casualties by warning Gaza's civilians, November 15, 2012, available from <http://www.idf.il/1283-17597-en/Dover.aspx>

⁸⁴ IDF website, Operation Pillar of Defense: Days 3-8, 21 November 2012, available from <http://www.idf.il/1283-17607-en/Dover.aspx>

⁸⁵ Ibid.

⁸⁶ UNRWA Gaza situation report, 22 November 2012.

collaborators held in DFA detention facilities were summarily executed, constituting a violation of their right to life and of international humanitarian law.
