

Mr. Ban Ki-moon, United Nations Secretary-General

### **PHROC Open Letter to UN Secretary-General on Hostilities in the Gaza Strip**

Dear Mr. Secretary-General,

In the context of Israel's ongoing military attack against the occupied Gaza Strip, you recently stated in your address to the distinguished members of the UN Security Council that "[o]nce again, civilians are paying the price for the continuation of conflict." The Palestinian Human Rights Organisations Council (PHROC), a coalition of twelve Palestinian human rights organisations in the Occupied Palestinian Territory (OPT), is gravely concerned about Israel's ongoing indiscriminate and disproportionate attacks against Palestinian civilians and civilian objects in the Gaza Strip. It must be noted that the population of the Gaza Strip has been living under an Israeli imposed closure for the past seven years, constituting a form of collective punishment. As a result, 70 per cent of Palestinians in the Gaza Strip are dependent on humanitarian assistance and have been hindered to recover from damage and destruction caused during previous Israeli offensives, including '[Operation Cast Lead](#)' and '[Operation Pillar of Defense](#)'.

'Operation Protective Edge' erupted in the context of an already on-going armed conflict and belligerent occupation. As such, Israel cannot rely on the self-defence argument within the meaning of Article 51 of the UN Charter. Hence, Israel must act in accordance with the laws regulating the conduct of hostilities and occupation. Furthermore, considered against the backdrop of Israel's wide scale punitive military campaign across the West Bank following the disappearance, and eventually the regretful death, of three Israeli settlers, the recent hostilities in the Gaza Strip indicate that a larger political agenda fuels Israel's actions.

As of 15 July 2014 at 1 p.m., Palestinian human rights organisations have documented the killing of 194 Palestinians, including 37 children and 28 women, in the context of 'Operation Protective Edge'. According to Al Mezan's initial investigations, 141 (i.e. 72.7%) of the killed Palestinians are to be considered civilians. Furthermore, at least 1.218 Palestinians have sustained injuries and 1.489 houses have been destroyed or damaged; 276 of which from direct attacks on houses. At least 76 of the casualties resulted from direct attacks on houses. Al Mezan further specifies that 23 schools, 34 mosques, an ambulance centre, 13 NGO offices, 38 fishing boats and 5 hospitals were damaged or destroyed. The United Nations Office for Humanitarian Assistance in the OPT has announced that over 17.000 Palestinians have taken shelter in UNRWA schools and another 6,500 found shelter with families or friends.

PHROC emphasises that international humanitarian law must be adhered to by all parties engaged in hostilities during armed conflict. The principle of distinction requires all parties to distinguish between civilians and combatants, as well as between civilian objects and military objectives. Furthermore, the principle of proportionality dictates that launching an attack, which may be expected to cause incidental loss of civilian life, injury to civilians or damage to civilian objects, which would be excessive in relation to the concrete and direct

military advantage anticipated, is prohibited. Failure to abide by these principles of international humanitarian law may result in the commission of war crimes.

Furthermore, Palestinian civilians in the OPT are protected under the Fourth Geneva Convention. As an Occupying Power, Israel must ensure the well-being and safety of the occupied population and respect Palestinians' right to life and dignity. As such, prior to launching a military attack Israel is obliged to provide "effective advance warning" of attacks that "may affect the civilian population" and take precautions in the choice of means and methods of attack with a view of avoiding and minimizing civilian casualties. The 'roof-knocking method' currently and previously employed by Israel, in which Israel warns Palestinian civilians of an upcoming airstrike by bombing their home, must be considered unlawful in and of itself due to the intentional and unnecessary damage caused to civilians' homes and the unjustified threat to civilian lives that it poses. Worse even, Palestinian civilians have been killed by 'warning missiles' during the recent round of hostilities, including at least three women and one child. Today, a mother and her 5 days old baby were injured from a similar attack.

By their own admission, Israel has thus far intentionally targeted Palestinian civilians and homes. For example, on 8 July, the Israeli army spokesperson announced that the Israeli military had deliberately bombed four homes of persons defined by Israel as senior Hamas activists.<sup>1</sup> According to international customary law, a permissible military objective is "limited to those objects which by their nature, location, purpose or use make an effective contribution to military action [...] or offers a definite military advantage"<sup>2</sup>. In these instances, the punitive targeting of the family homes of persons that may have links with armed groups and that are additionally not taking active part in hostilities, cannot be considered permissible.

Considering the Secretary-General's engagement on the matter of Israel's occupation of the OPT, and his ability to bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security, PHROC calls on Mr. Ban Ki-moon to:

- Clarify Israel's obligations as an Occupying Power engaged in hostilities in Palestine;
- Immediately and unequivocally deplore Israel's indiscriminate and disproportionate attacks against Palestinian civilians and civilian objects;
- Demand that all parties comply with their international humanitarian law obligations, including the principles of distinction, proportionality and military necessity;
- Take the position that the root cause of the ongoing hostilities is Israel's belligerent occupation and accompanied violations of international law, including the Palestinian inherent right to self-determination;

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<sup>1</sup> [http://www.btselem.org/gaza\\_strip/20140708\\_gaza\\_operation](http://www.btselem.org/gaza_strip/20140708_gaza_operation)

<sup>2</sup> ICRC, International Customary Law Rule 8

- Actively support the deployment of a United Nations created international protection force with the mandate of bringing Israeli violations against the occupied Palestinian people to an end;
- Continue to bring to the attention of the Security Council violations of Palestinians' rights;
- Request the High Commissioner for Human Rights to join the Secreatry-General in firmly condemning Israel's persistent violations of international law

Sincerely,

	<p><b>Addameer Prisoners' Support and Human Rights Association</b> Sahar Francis General Director</p>		<p><b>Aldameer Association for Human Rights</b> Khalil Abu Shammala General Director</p>
	<p><b>Al-Haq</b> Shawan Jabarin General Director</p>		<p><b>Al Mezan Center for Human Rights</b> Issam Younis General Director</p>
	<p><b>Badil Resource Center for Palestinian Residency and Refugee Rights</b> Nidal Alazza General Director</p>		<p><b>Defence for Children International Palestine Section</b> Rifat Kassis General Director</p>
	<p><b>Ensan Center for Human Rights and Democracy</b> Shawqi Issa General Director</p>		<p><b>Hurryyat - Centre for Defense of Liberties and Civil Rights</b> Helmi Al-araj General Director</p>
	<p><b>Jerusalem Center for Legal Aid and Human Rights</b> Issam Aruri General Director</p>		<p><b>Ramallah Center for Human Rights Studies</b> Iyad Barghouti General Director</p>
	<p><b>Women's Centre for Legal Aid and Counselling</b> Maha Abu Dayyeh General Director</p>		<p><b>The Palestinian Center for Human Rights</b> Raja Sourani General Director</p>