



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

"Dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights"

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ICJ Intervention on the Human Rights Situation in Palestine and other occupied Arab territories - Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

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Mr. President,

The International Commission of Jurists (ICJ) remains deeply concerned by the continuing excessive, disproportionate, and indiscriminate use of force against civilians by the Israeli Defence Force (IDF) and the Palestinian armed groups. Attacks against civilians are contrary to the principles of distinction and proportionality, which are cornerstones of the international humanitarian law. Protection of civilians must not be diluted and any attempts to reinterpret the international law to that end are impermissible.

During the last three-month IDF's incursions in Gaza, civilians were killed, residential structures unlawfully demolished and non-military objects targeted. All through its last mission to Gaza, the ICJ witnessed how the damage resulting of the IDF's attacks was in many cases disproportionate to the direct military advantage to be gained. Other IDF's attacks deliberately targeted civilians and objects indispensable to the survival of the civilian population without any legitimate military advantage at all.

These IDF's attacks were provided for by the September 2007 Cabinet Decision, which declared Gaza a hostile territory and called for punitive measures to respond to attacks by Qassam rockets at civilians in southern Israel. Indeed, the indiscriminate rocket attacks by Palestinian armed groups constitute a grave breach of the international humanitarian law. However, Israel must not target civilians and civilian objects in an attempt to stop the rocket attacks by Palestinian armed groups.

Sanction measures provided by the same 2007 Decision, including restrictions on the supply of fuel and electricity and the passage of goods to Gaza, punish civilian population and constitute a collective punishment prohibited by the international humanitarian law. Such Israeli policy has failed to stop the rocket attacks or to achieve any direct military advantage. Israel maintains that in responding to an existential threat, the military advantage is to be measured against the military operation as a whole. This interpretation has been construed to weaken the enemy by targeting its civilian population and undermining the civilians' right to be protected. As it denies the limits to methods and means of warfare, it may constitute a grave breach of the international humanitarian law.

Mr. President,

The ICJ has been deeply concerned by the continuing growth in the establishment of illegal settlements and settlers in the OPTs, including in Hebron, where the Israeli military and security forces impose a regime of separation between Israeli settlers and Palestinians. This regime severely restricts the right of Palestinians to freedom of movement, and prevents them

from having access to their homes, work, school, health facilities, and means of subsistence. This situation continues to violate the Israeli Government's obligations under the international law and the Road Map.

Mr. President,

As agreed in the Oslo Agreement and subsequent peace accords, the negotiations between Israel and the Palestinian Authority on the permanent status should cover the issue of Palestinian refugees, as refugees have been denied basic social and economic rights as well as the right to reclaim their property. Refugees must enjoy the rights to dignity, reparation and return, stipulated by the international law. Maintaining a *status quo* would be a serious obstacle to achieving a comprehensive, just and lasting peace to the Israeli-Palestinian conflict.

I thank you.