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**Background Document: Violations of Human Rights
in Gaza and Israel
As the Fighting Rages
14 January 2009**

Israeli human rights organizations demand an end to the attacks against civilians. All sides must abide by the laws of war and moral principles, which prohibit indiscriminate and disproportionate attacks against civilians, buildings, and infrastructure that are not clearly military targets.

Both in Gaza and Israel, civilians not involved in the fighting have been severely harmed by actions carried out by the IDF and Hamas militants. The human rights organizations are appalled by these attacks and the extensive damage they have wrought.

The number of casualties is unprecedented. From when the fighting began through the morning of 14 January 2009, at least 970 Palestinians have been killed, of whom at least 300 were children and 76 were women. Twelve medical personnel were among those killed. More than 4,400 Palestinians have been injured, and it is estimated that more than 450 of those injured are in critical condition. The danger facing medical personnel and the difficulty of extricating victims from under the rubble make it hard to evacuate the injured and estimate their number. More than half the Palestinians killed since the IDF ground forces entered Gaza are women and children. Casualties only multiply as the fighting is prolonged.

The combat has caused extensive, unprecedented devastation throughout the Gaza Strip. The water, sewage, and electricity systems are virtually not functioning, leaving residents at risk and unable to cope with the consequences of the fighting.

It must be emphasized that violation of the laws of war by one side does not justify or legitimize such violations by the other. Israel's ongoing violations of the rights of Palestinian civilians in Gaza do not justify the firing of rockets at civilian populations by Hamas. Such shooting is strictly prohibited, marked by a black flag of immorality, and a flagrant violation of the laws of war. This is also true for the rockets fired at Israeli civilians, which do not give Israel the right to wreak massive destruction on the civilians in Gaza, and a black flag flies over this as well. There is no justification for attacking civilians – not in Israel, Gaza, or anywhere.

The harm to Israeli civilians caused by the rockets fired by Hamas is well known to the Israeli public. However, the harm to the Palestinians in Gaza in recent years as a result of Israel's actions is a reality almost unknown to most Israelis. In August 2005, Israel withdrew its ground forces and the settlements it had established in the Gaza Strip and declared an end to Israel's occupation of Gaza. This did not free Gazans from Israeli rule, however. Even after the disengagement, Israel continued to control the land crossings, air space, and territorial waters, as well as the Gazan population registry. Israel used this control to severely limit the freedom of movement – of goods and people – into and out of Gaza.

Furthermore, during the decades of occupation, Israel made Gaza and its residents dependent upon Israeli services, a dependence that continued even after the disengagement. Israel's unilateral withdrawal left 1.5 million Gazans with an inadequate infrastructure to generate electricity, a deficient medical system, and a need to rely on external suppliers for food, basic commodities, and services, but unable to attain these because of Israel's closure policy. In June 2007, when Hamas took control of the Gaza Strip, Israel tightened these constraints and imposed a nearly total closure on Gaza, later even limiting the passage of fuel and electricity, further degrading the infrastructure. Thus Israel exploited its control over Gaza, imposing a policy of collective punishment upon the civilians who live there.

As organizations concerned about safeguarding the human rights of every man, woman and child – Israeli and Palestinian – we are alarmed by the lethal attacks on civilian populations that accompany the fighting now raging in Gaza and southern Israel. Once again we call upon all those involved in the fighting to adhere to the directives of the laws of war, which prohibit deliberate or disproportionate harm to civilians and the use of civilians as a human shield.

As organizations that operate in Israel vis-à-vis the Israeli authorities, we call upon the government of Israel and the IDF senior staff to operate within the framework of all the limitations imposed by law, adhering to their obligations under international law and human morality, and to protect the lives of civilians.

Updates from the Field

Harm to civilians as a result of the hostilities – Since 27 December 2008 when the IDF launched the military operation it calls “Cast Lead” in the Gaza Strip, there has been a severe, extensive, and multi-casualty attack against civilian populations. International organizations located in the Gaza Strip report a humanitarian crisis.

In Israel – As of the morning of January 14, 3 Israeli civilians and 7 soldiers have been killed. Over 82 Israeli civilians have been injured (not included those treated for shock), of whom 4 were seriously injured, while 71 Israeli soldiers have been wounded, one critically.

In Gaza – As of the morning of January 14, at least 970 Palestinians have been killed, of whom at least 300 were children and 76 were women. Twelve medical personnel were among those killed. More than 4,400 Palestinians have been injured, and it is estimated that more than 450 of those injured are in critical condition. More than half of those killed since IDF troops entered Gaza were women and children. Casualties only multiply as the fighting is prolonged.

The population in the Gaza Strip has been under constant and massive attack since 27 December 2008 – from the air, sea, and land – unprecedented in its scope and the damage caused. A million and a half residents of the Gaza Strip live under relentless bombing and are gripped by terror. There is nowhere to hide and nowhere to escape, as all Gaza borders are tightly sealed. Residents are fearful of being outside their homes lest they come under IDF attack. Those who fled to places of refuge, including UNRWA schools, have been attacked and injured even there.

At the same time, severe harm has been wrought to the civilian population of southern Israel since the beginning of the military operation as a result of rockets fired by Palestinian militants. Approximately one million Israelis are under threat of rocket attack.

Harm to civilian infrastructure – During the action, IDF forces destroyed thousands of structures by air bombardment and shelling, including many residential buildings and public structures, whose targeting is prohibited by the laws of war. Thus, the IDF bombed the police headquarters, Parliament, and the Ministries of Education and Sanitation in the city of Gaza. Hamas has ruled Gaza since July 2007, and functions as an alternative government to the Palestinian Authority. Working in the civilian governmental institutions are civil service employees and administrators.

From statements made in the media by senior officials of the Israeli government and other official spokespersons, the targeting of government ministries and public-civic facilities in Gaza seems to be Israeli government policy, founded on the claim that institutions controlled or supervised by Hamas constitute legitimate targets.

The systematic destruction of the civilian infrastructure in Gaza undermines any hope of orderly governance or a functioning civil society in Gaza after the fighting ends. Thousands of buildings were destroyed, leaving thousands of residents without a roof over their heads. Thousands more fled their homes in fear of attack.

Ongoing blocked crossings and damaged civilian infrastructure – Since the launch of the military campaign on 27 December 2008, the IDF has almost entirely blocked fuel and cooking gas through the Nahal Oz terminal, which is the only orderly access point into Gaza for fuel and gas. As a result, the Gaza power plant – which needs industrial diesel to generate electricity – has not operated at all since 29 September 2008. According to data gathered by international bodies and reports from Gaza, basic commodities are slowly drying up, infrastructure has been damaged beyond repair, and the small amount of aid that enters is insufficient, meeting the needs of only a fraction of the local population.

Even before the current fighting, Gaza had to contend with a critical shortage of essential commodities because of the near total closure imposed by Israel for the past year and a half, with severe restrictions on the entry of goods, even those required for the survival of a civilian population, including spare parts needed for the Gaza infrastructure to function.

Since the fighting began, the humanitarian situation in Gaza has reached a nadir. Civilian infrastructure has been destroyed or is unable to function properly. Repairs

are limited because of the risk to technicians and the acute shortage of spare parts. Thousands of injured victims are crowded into hospitals, and the massive destruction increased the need for fuel to meet essential needs – water pumps, sewage facilities, and the health system – which are collapsing under the continuous barrage of bombing and the system overload due to mass injuries and destruction.

Most Gazans have no electricity because of the damage to the electricity lines caused by the bombings and lack of industrial diesel fuel.

The electric power grid is on the verge of collapse in Gaza, exactly at a time when electricity is critical for running the hospitals, pumping water, and other basic needs.

The health system – Even prior to the current military campaign, Gaza’s health system was buckling because of the sealed border crossings and the year-and-a-half long closure. At the time, the system struggled to cope under severe constraints: the lack of medical knowledge, expertise, and experience to cope with complex illness or injury, the lack of medical equipment and staff that knows how to operate it, inadequate medical supplies and medicines, and extended electricity blackouts. With the current military strikes in Gaza and the large number of Palestinians wounded, the health system must cope with severe injuries that require complex and skilled treatment, which cannot be carried out under the present conditions.

Several truckloads of humanitarian aid reportedly entered Gaza during the last few days. This response is insufficient to address the complex medical needs in Gaza hospitals. Medical knowledge, expertise and skills are lacking in the Gaza system, and desperately needed for severe injuries. Therefore, some patients must be evacuated for treatment in Israel and other advanced medical centers located near the Gaza Strip.

Targeting medical teams and preventing evacuation of the wounded – The IDF has not provided the special protection accorded to teams evacuating victims of the hostilities. The forces in control of the Netzarim area, for example, are shooting at Palestinians who travel on the coast road from the central to the southern zone, and ignoring their medical symbols and vests. On 4 January alone, four medical personnel were fatally shot by IDF soldiers while performing medical duties.

Many Palestinians are wounded or dead, but cannot be evacuated because of the continuous shelling. Although the International Committee of the Red Cross – of which the Palestinian Red Crescent is a member – has the right to full protection under international laws of war for evacuating the wounded during fighting, Palestinian medical crews are required to coordinate this in advance, and they encounter serious difficulties in doing so. For example, ambulances that went to evacuate people in the al-Atatara area were fired upon by Israeli Apache helicopters.

Laws of War

While international law permits the waging of war, not everything about how it is waged is permitted. The laws of war, which are part of international humanitarian law, set out the obligations imposed on both sides to a conflict. The goal of this law is to find the right balance between two conflicting interests – the interests of the military and the need to provide maximum protection for civilians during hostilities.

International humanitarian law – primarily the Fourth Geneva Convention and its Additional Protocols – is the product of agreement among states. Much of this law was created in the wake of the atrocities of World War II, in the hope of reducing the enormous suffering to civilians during wartime. The State of Israel is a signatory to the Geneva Convention. Many of the articles of this law obligate every country, whether signatory to this Convention or not. Israel is also bound by its articles.

International humanitarian law obligates all sides, even if one side does not adhere to the law. Thus, Israeli violations of the law do not legitimize violations by Hamas, just as violations by the Hamas do not legitimize Israeli violations.

Obligations during hostilities – The two fundamental precepts of humanitarian law are **the principle of distinguishing between combatants and civilians** and **the principle of proportionality**. These principles are intended to serve the overarching goal of humanitarian law: minimizing the suffering of civilians during armed conflict.

Indiscriminate attacks are prohibited by international law. Indiscriminate attacks are defined as those which, inter alia, “employ a method or means of combat which cannot be directed at a specific military objective; or those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol”

(Article 51(4)(b-c) to the First Protocol). Even for military targets, the risk to civilians and civilian facilities must be taken into account during planning and execution. An attack that “may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated” is considered indiscriminate and hence prohibited (Article 51(5)(b) of the Protocol).

It is the obligation of the parties in conflict to distinguish between military and civilian targets. In cases of doubt “whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used”, hence, an attack on it is prohibited (Article 52(3) of the Protocol). International law also clearly asserts that, “In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects” (Article 57(1) of the Protocol). Indeed, “an attack shall be cancelled or suspended if it becomes apparent that the objective is not a military one or...may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated” (Article 57(2)(b) of the Protocol).

The shooting of rockets by Hamas into Israel that is not directed against a military target, but intended to harm civilians, is a violation of international law. Prohibited, too, is the use of civilians as a “human shield” or carrying out attacks from within populated areas.

Israel’s actions in Gaza are in violation of international law as well. The Gaza Strip is known to be one of the most densely populated regions in the world. A significant portion of the IDF bombardment of Gaza includes air strikes at targets in the midst of or in close proximity to heavily populated areas. Some of these attacks are intended to damage or destroy structures that ordinarily serve civilian needs. Some of the IDF targets – including Palestinian institutions of governance – are clearly civilian targets, and thereby prohibited. Other targets have been mosques, schools and residential buildings on the grounds that they are being used for the storage of ammunition or that shooting originated from or near them. These protected sites cannot be attacked on the basis of a general suspicion, but only on well-founded information, and even then, the risk to civilians must be taken into account both during the planning and execution of the action.

Furthermore, those who take decisions about attacking targets in or near densely populated areas know that they are placing many civilians in mortal, not hypothetical, danger. These actions, as noted, have led to the killing and wounding of many civilians.

Attacks initiated in the midst of or in close proximity to a densely populated area, combined with accumulating data about the significant number of civilians among those killed and wounded and the ongoing damage to civilian infrastructure, raise serious concerns about grave violations by Israel of international humanitarian law.

Israel's obligations to ensure civilian needs – Even after Israel disengaged from Gaza, it retained extensive control over the Gaza Strip. As a result of this and Gaza's dependence on Israel – fostered by Israel during the long years of occupation – Israel continues to have obligations vis-à-vis the civilian population in Gaza. These will remain in effect so long as Israel continues to control extensive aspects of life in Gaza and does not allow Gaza residents to maintain an independent existence. These obligations increased with the entry of IDF ground forces into Gaza and the expansion of de facto Israeli control within the Gaza Strip. As a result, Israel is obligated to ensure that the civilian population in the war zones do not lack water, electricity, medical equipment, medicine, or food. What's more, Israel has the obligation to ensure that the local hospitals are able to provide reasonable medical service during the hostilities.

Preventing the entry of essential goods – As noted, the medical system in Gaza was on the verge of collapse even before the current military campaign. Now the medical system is unable to care for the many who were wounded in the fighting.

The limitations placed by Israel since 28 October 2007 on fuels and cooking gas entering the Gaza Strip have reduced the electricity that could be generated in Gaza's power plant and sometimes even led to its closing due to a shortage of industrial diesel. The electricity blackouts have disrupted vital humanitarian needs in Gaza as well as water supply and sewage facilities. For the eight weeks prior to the IDF campaign, Israel completely closed the Nahal Oz terminal, with the exception of twelve days in which a limited and inadequate amount of fuel was allowed through the terminal. This shortage was well known to the security officials, as human rights organizations repeatedly protested against it. Hence, the situation was expected to

worsen through the fighting. According to the laws of war, it was incumbent upon the military commander to prepare for this eventuality, but he did not do so.

The Organizations Call upon Israel

As organizations that operate in Israel vis-à-vis the Israeli authorities, we call upon the Israeli government and the IDF senior staff to ensure protection for the civilian population of the Gaza Strip and to immediately halt the indiscriminate and disproportionate attacks against civilians and civilian infrastructure.

Israel must take all necessary measures, including conducting independent inquiries, to investigate these events in order to prevent repeated harm to civilians and civilian targets, and ensure adherence to the laws of war.

Israel must allow for immediate renewal of an unlimited supply of fuel, medical equipment, food, and other essential commodities to the Gaza Strip in response to the severe shortages there, which exacerbate the already grave situation among the civilian population.

Israel must make it possible for repairs to be carried out to enable the functioning of the civilian infrastructure and the transport of fuel and equipment for humanitarian facilities inside Gaza by, inter alia, ensuring the safety of crews who repair and maintain the water, sewage, electricity, and health systems in Gaza, and the safety of those bringing in equipment, food, and fuel to the humanitarian facilities.

Attacks on medical personnel must stop, and the immediate and safe evacuation of the wounded to hospitals must be permitted.