

Defence for Children International
George Abu Al-Zulof, Director
Telephone number: +972 2 240 7530
Email: george@dci-pal.org

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Written statement submitted by Defence for Children International (DCI), a non-governmental organisation in special consultative status

Title:

Child fatalities as a consequence of Israel's military campaigns in the Gaza Strip between 28 June 2006 and 26 November 2006

Text:

Defence for Children International/Palestine Section (DCI/PS) is dedicated to promoting and protecting the rights of Palestinian children in the Occupied Palestinian Territories (OPT) - as articulated in the UN Convention on the Rights of the Child as well as in other international human rights instruments - and to facilitating the creation of an environment which respects children's rights. Among other activities, DCI/PS documents and monitors individual violations of Palestinian children's rights, using a team of fieldworkers around the OPT¹.

This statement is designed to supplement the September 2006 report (A/HRC/2/5) and January 2007 report (A/HRC/4/17) of the Special Rapporteur on the situation of human rights in the OPT, John Dugard, and more specifically, paragraphs (21) and (8) respectively of these reports, concerning civilian casualties resulting from Israel's military actions in the Gaza Strip in the second half of 2006.

¹ To ensure the utmost accuracy DCI/PS fieldworkers collect their information from a variety of sources. Eye witness statements and witness statements are accurately recorded; sworn affidavits are taken and detailed testimonies are collected. Fieldworkers take particular effort to ensure that all case-study information is accurate by carefully corroborating and cross-checking their accounts with other human rights organisations, international and national journalists, medical professionals and institutions, local officials, and Israeli government statements. DCI/PS fieldworkers work in a demanding and frequently dangerous environment. Security conditions sometimes inhibit immediate data collection at the scene. All cases for which DCI/PS has been unable to find eyewitnesses, or other credible sources of information, are acknowledged as unconfirmed. The DCI/PS Monitoring and Documentation Unit comprises three office staff in addition to 11 highly trained and experienced fieldworkers who visit the sites of alleged child rights violations as soon as access is feasible.

On 28 June 2006, Israel initiated “Operation Summer Rains” in the Gaza Strip. During this campaign, Israel repeatedly shelled built-up areas and arbitrarily destroyed civilian infrastructure, including power stations and hospitals. Israel’s justification for such a campaign was to free Israeli Corporal Gilad Shalit, abducted by Palestinian militants on 25 June, and to stop the launch of Palestinian Qassam rockets into Israel. In November 2006, Israel intensified its military operations by launching a second offensive against Gaza, codenamed “Operation Autumn Clouds”. These savage military campaigns were characterised by near-daily incursions into Gaza and indiscriminate heavy shelling which took a heavy toll on the civilian population, including children.

There have been **84 children killed** in Gaza by the Israeli Occupying Forces between 28 June 2006 and 26 November 2006. The majority (69%) was aged 13 – 17; however there has still been a tragically high number of younger children (31%) who were killed as a direct result of Israeli military activity in Gaza during this period.

None of these children were involved in combatant activities. Yet, shelling by land and air has been the main cause of death amongst these children, accounting for 78% (65) of fatal cases during this reporting period; while deaths from random open gunfire (17) account for 20% of the total.

In 42 out of 84 cases (50%) children were hit directly by Israeli ammunition: they were hit either in the upper body or in the head by sniper bullets; other gun fire; or missiles which fragmented the child’s body. DCI/PS does not have the resources to assess forensics or ballistics from the incidents in which these children were killed. However, we know that the Israel army has one of the best remote sensing, surveillance and targeting weapon capabilities in the world. Thus, when faced with this high number of child fatalities, and the apparent circumstances surrounding them, we can only conclude that Israel bears direct responsibility for the deaths of these children.

On Monday 10 July 2006, at around 16.00, Mahfouth Farid Nasseer, 16 years old, went to the Nour al Shuhada’ mosque, in Beit Hanoun, to pray with his friends. After prayers, he went with his friends, Ahmad Shabat, Ahmad Abu Amsha, Raji Deif Allah and Mohamad al Athamneh to the agricultural school to play football. At around 19:30, two missiles were launched by Palestinian combatants from Shawa Farm, located to the north of the agricultural school. Shortly after, an Israeli missile was launched from a drone towards the school – which was situated about 350 metres away from the farm. Ahmad Abu Amsha, Mahfouth Farid Nasseer, Ahmad Shabat were killed instantly. Raji Deif Allah died of his injuries on 13 July 2006.

In 42 out of 84 cases (50%) children were hit indirectly: 13 children (31%) were killed during the targeted assassination of an adult Palestinian (they were either in a building shelled or hit by a missile, or outdoors and killed by shrapnel artillery); 1 child was killed from an Israeli UXO; 2 children were killed in accidents as they fled from the shelling of civilian areas (in one case a grandmother tripped as she ran, dropping her grandchild, in the second case a loose pole from a swing-frame fell on a child’s head as she ran); 26 children were killed indirectly from shrapnel, although the circumstances surrounding the

military engagement at the time of death is unclear. DCI/PS believes that Israel has indirect responsibility for these deaths.

Shortly after 18:00 on 24 July 2006, 11 year old Khitam Mohamed Tayeh was with her 13 year old sister, Noha. They were going to a shop in the closed market near their house west of Izbei Beit Hanoun to buy the board-game "Snakes and Ladders". The market is near building No. 10 in the area of Abraj Al Nada, which had suffered heavy shelling earlier that day. As the girls arrived at the shop, at around 18:15, the market was hit by a shell from an Israeli tank. Khitam sustained serious injuries to the head and died 15 minutes after arriving at Shifa hospital. Noha was injured by shrapnel in her right leg.

In addition, a large majority of those 84 children were killed in their town or city, in densely populated areas of Gaza (Beit Hanoun, Jabalia, Gaza City, Rafah, Khan Younis). This demonstrates that Israel deliberately targeted civilian built-up areas in violation of articles 48, 51, 52 and 77 of the First Protocol Additional to the Geneva Conventions, on the protection of civilian populations and children in times of war.

In the evening of 26 July 2006, the Sameer 'Aocal family were sitting in the courtyard outside their house in the Al Qerm neighbourhood, to the east of the town of Jabaliya. At around 18:50 the father heard a commotion outside their front door and went to investigate. He opened the door to see an Israeli tank firing a shell at the wall surrounding his house. His wife, and daughters Maria (5 months old) and Shahd (7 months old) were killed instantly. His other two daughters, Amani (4 years old) and Sumaia (14 years old), suffered serious shrapnel injuries. Sumaia died from her injuries on 1 August 2006.

In the early afternoon of 27 July 2006, the Israeli army shelled the Al Amal neighbourhood in Beit Hanoun. A missile fell on the house of Isma'il Abu Amsha. His son, 16 year old Ahmad, was wounded with shrapnel to the head. He was pronounced dead before reaching hospital.

When faced with such high number of child fatalities during this period of five months, and the circumstances surrounding them, DCI/PS can only conclude that Israel is not prepared to give due consideration to the international humanitarian law principles of distinction and proportionality enshrined in the Geneva Conventions, and that it is legally bound to uphold.

In his January 2007 report, John Dugard condemned Israel's 2006 military campaigns in Gaza, and observed that they "violated the most fundamental rules of international humanitarian law, which constitute **war crimes** in terms of article 147 of the Fourth Geneva Convention and article 85 of the Protocol Additional to the Geneva Conventions

of 12 August 1949, and relating to the Protection of Victims of International Armed Conflict (Protocol I)”².

The right to life is the most fundamental of all human rights; it is protected in many international human rights law instruments to which Israel is legally bound, namely: the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and of particular consequence when examining the rights of Palestinian children, the Convention on the Rights of the Child. Yet, Israel’s military actions in Gaza between 28 June and 26 November 2006 have seriously breached principles on the right to life included in these instruments.

DCI/PS calls on Human Rights Council members to:

- exert pressure on the Israeli government to (i) carry out an independent inquiry on the killing of innocent children in Gaza during operations “Summer Rains” and “Autumn Clouds”, and (ii) authorise the UN fact finding mission to the Gaza Strip, mandated to probe into the killing of 19 civilians (including 8 children) in Beit Hanoun in November 2006³.
- issue recommendations for Israel to (i) alter its military operational guidelines in order to respect international humanitarian law principles of distinction and proportionality during hostilities (ii) comply with its obligations under international human rights law and in particular the Convention on the Rights of the Child.

² A/HRC/4/17, paragraph 22 (p.11)

³ Resolution S-3/1, adopted on 15 November 2006 by the Council, decided to dispatch a high-level fact-finding mission to Beit Hanoun. Israel blocked the mission.