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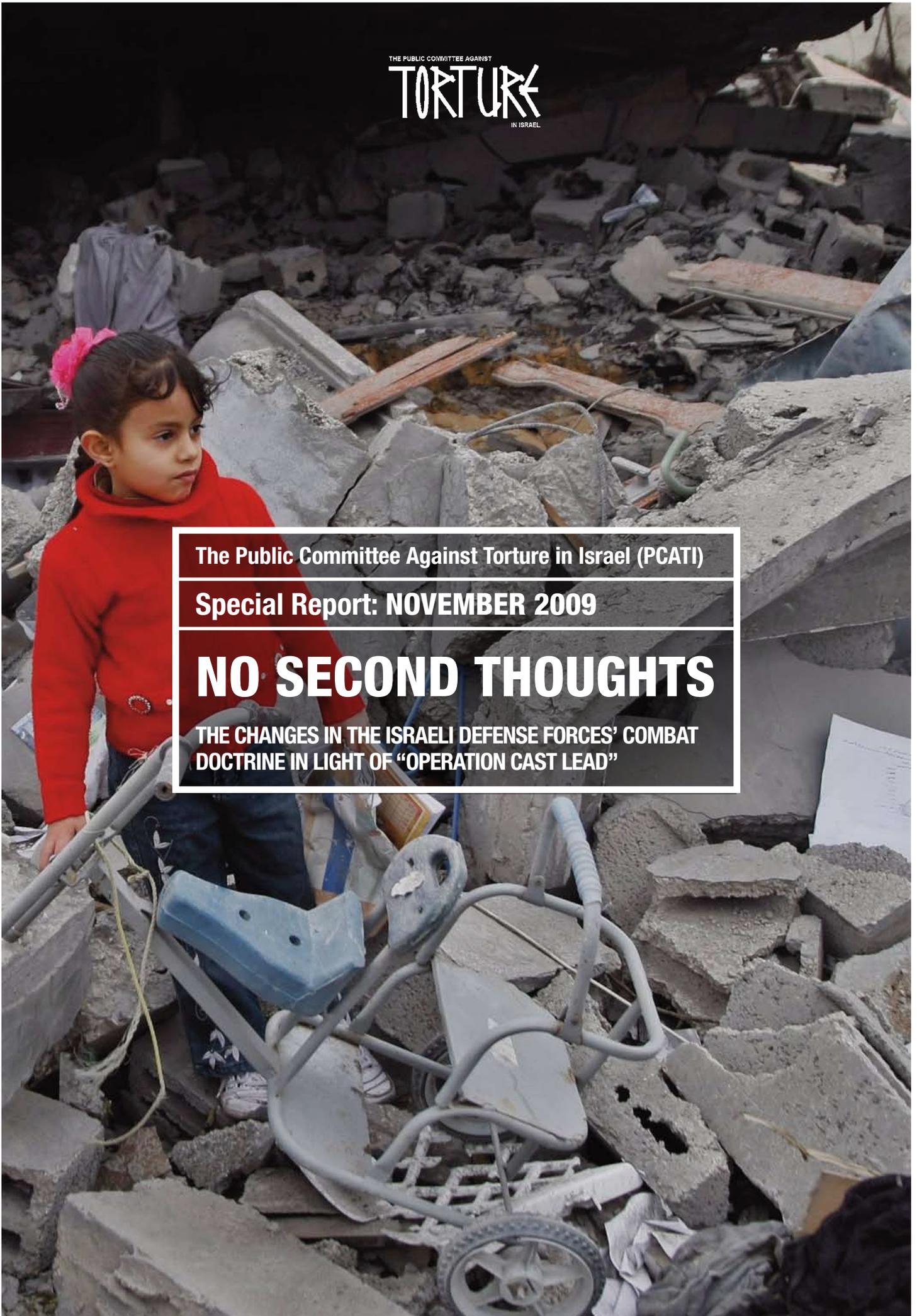
TORTURE
IN ISRAEL

The Public Committee Against Torture in Israel (PCATI)

Special Report: **NOVEMBER 2009**

NO SECOND THOUGHTS

**THE CHANGES IN THE ISRAELI DEFENSE FORCES' COMBAT
DOCTRINE IN LIGHT OF "OPERATION CAST LEAD"**



The Public Committee Against Torture in Israel (PCATI) believes that torture and ill-treatment of any kind, under any circumstances, is incompatible with moral values, democratic standards, and the rule of law. PCATI was founded in 1990 in response to government policy that enabled systematic use of torture and ill-treatment during GSS interrogations.

In September 1999, following petitions filed by PCATI and other human rights organizations, the High Court of Justice ruled to prohibit some interrogation methods that had been employed at the time and which clearly constituted torture and ill treatment. This ruling was a significant advance, although it left an opening for the use of torture and ill-treatment in Israel. PCATI works towards the protection of detainees' and prisoners' rights, and the implementation of an absolute prohibition against torture.

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The Changes in the Israeli Defense Forces' Combat Doctrine
in Light of "Operation Cast Lead"

November 2009



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Introduction

At 11.30 am on 27 December 2008, without any specific warning, Israeli forces began a massive bombing campaign against the Gaza Strip, which was codenamed "Operation Cast Lead". The declared aim of the campaign was to eliminate the weapons and infrastructure that Hamas and other Palestinian organizations had used to launch attacks against Israeli civilians on thousands of occasions since October 2000, and to prevent those attacks from recurring.

All sources agree that by 18 January 2009, when unilateral ceasefires were announced by Israel and Hamas, more than a thousand Palestinians had been killed, including hundreds of unarmed civilians, and large areas of Gaza had been razed to the ground, leaving many thousands homeless. The local economy, which was already in dire straits before the operation, was left in ruins.

Since March 2009, various organizations, including Amnesty International,¹ Human Rights Watch and the United Nations Fact-Finding Mission² have produced reports on the entire operation or specific aspects of it. In addition, Israeli human rights organizations, both in joint statements³ and in individual publications such as those by B'Tselem⁴ and Gisha⁵, have also related in a critical manner to the IDF's (Israeli Defense Forces) actions during the operation. All these publications have arrived at the general conclusion that was expressed in one report:

*"Much of the destruction was wanton and resulted from direct attacks on civilian objects as well as indiscriminate attacks that failed to distinguish between legitimate military targets and civilian objects. Such attacks violated fundamental provisions of international humanitarian law, notably the prohibition on direct attacks on civilians and civilian objects (the principle of distinction), the prohibition on indiscriminate or disproportionate attacks, and the prohibition on collective punishment."*⁶

Given the fact that these reports are quite comprehensive and provide great detail regarding Operation Cast Lead, it begs the question of what added value a further report on the operation can provide. The answer is that this report does not attempt to cover most of the aspects that have been dealt with in the other reports. Rather we have chosen to put a spotlight on what seems to be a change in the IDF's combat doctrine - a change which stood out during the course of Operation Cast Lead. In order to do this, the report highlights the statements made by senior Israeli military

¹ Amnesty International, **Israel/Gaza: Operation "Cast Lead": 22 days of death and destruction**, July 2009: <http://www.amnesty.org/en/library/info/MDE15/015/2009/en>

² **Report of the United Nations Fact Finding Mission on the Gaza Conflict** (Goldstone Report), September 2009:
<http://www2.ohchr.org/english/bodies/hrcouncil/specialsession/9/FactFindingMission.htm>.

³ See the **Submission of Human Rights Organizations based in Israel to the Goldstone Inquiry Delegation**: Adalah, Association for Civil Rights in Israel, Gisha, Hamoked – Center for the Defence of the Individual, Physicians for Human Rights – Israel, Public Committee Against Torture in Israel, Yesh Din, July 2009: <http://www.stoptorture.org.il/en/node/1446>

⁴ B'Tselem, **Investigation of fatalities in Operation Cast Lead**, September 2009:
http://www.btselem.org/Download/20090909_Cast_Lead_Fatalities_Eng.pdf

⁵ Gisha, **Red Lines Crossed: Destruction of Gaza's Infrastructure**, August 2009:
http://www.gisha.org/UserFiles/File/publications_/Infrastructures_Report_Aug09_Eng.pdf

⁶ Amnesty International, *Ibid.*, p. 1.

and political figures in the period leading up to Operation Cast Lead, during the attack, and in its aftermath. It is our belief that the horrendous outcome of the attack must be examined in light of Israel's strategic policy, as expressed in articles and media statements by the people who designed and carried out that strategy.

The Israeli response to the conclusions drawn in the aforementioned reports has been that despite their sorrow over the harm caused to the residents of the Gaza Strip during the operation, the sheer magnitude of deaths and destruction does not prove that the IDF's action were immoral or illegal. In fact, Israel blames Hamas for the tragedy and condemns the approach adopted by the human rights organisations in the aforementioned reports:

*"Nonetheless, in many cases, the results of the Gaza Operation were unfortunate. Civilians were killed or injured, and private property, as well as Gaza's public infrastructure, was damaged. Israel in no way seeks to dismiss those tragedies or to devalue the human loss incurred. As then-Prime Minister Olmert said to the citizens of Gaza, "Your suffering is terrible. Your cries of pain touch each of our hearts. On behalf of the Government of Israel, I wish to convey my regret for the harming of uninvolved civilians, for the pain we caused them, for the suffering they and their families suffered as a result of the intolerable situation created by Hamas." But as tragic as those casualties were, the mere fact that they occurred does not in and of itself mean that Israel did not have a right — indeed a duty — to protect its citizens against the incessant terror emanating from Gaza, or that in its various operations it violated applicable international law norms while doing so, as some have been quick to accuse."*⁷

Israel makes a valid observation that the mere facts concerning the large number of civilian deaths and widespread destruction is not sufficient proof that the IDF's action were improper or in violation of international humanitarian law (IHL). Israel was indeed faced with a situation in which its civilians were targeted by Hamas rockets fired from the Gaza Strip. In fact, the very same point is expressly made by the same human rights organisations that Israel attacks as being prejudiced against it. For example:

*"The Hamas rocket attacks targeting Israeli civilians are unlawful and unjustifiable, and amount to war crimes. As the governing authority in Gaza, Hamas should publicly renounce rocket attacks on Israeli civilian centers and punish those responsible, including members of its own armed wing."*⁸

As Israeli citizens, who followed the events closely and were exposed on a real time basis to both Israeli and international media reports, we are taken aback regarding the official Israeli response to the accusations that have been made. The Israeli government's claims that the IDF made every effort to avoid harm to Palestinian civilians, and that the damage caused was reasonable given the circumstances, are at odds with the actual operation and its results. Not only do the events in the field attest

⁷ **The Operation in Gaza: Factual and Legal aspects**, Art. 18, July 2009, published on the website of the Israeli Ministry of Foreign Affairs: http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Terrorism+and+Islamic+Fundamentalism-/Operation_in_Gaza-Factual_and_Legal_Aspects.htm

⁸ Human Rights Watch, **Gaza/Israel: Hamas Rocket Attacks on Civilians Unlawful**, August 6, 2009: <http://www.hrw.org/en/news/2009/08/06/gazaisrael-hamas-rocket-attacks-civilians-unlawful>

to this, but so do the very statements made at the time by the same Israeli authorities who today proclaim their innocence. Accordingly we returned to the Israeli media archives and reviewed the reports of the operation, hour by hour and day by day, up until the casualty reports that were published in March 2009. The report below summarizes our main findings.

I. The Principles of International Humanitarian Law

Israel argues that it was forced into acting against targets in very densely populated areas, including rocket launchers in the streets and weapons caches in civilian buildings. However, the fact that Hamas committed violations and acted from within residential areas does not provide justification for unlimited military actions. Israel must act in accordance with IHL (as it maintains it did) and take all possible actions to limit the damage it caused.

Since the beginning of human history the stronger side has used the amount of force it deems necessary against its enemy. Since the middle of the 20th century, in reaction to the horrors of World War II, there has been an attempt to moderate the nature of military actions in general and specifically those which affect civilians. Various treaties were drawn up in an effort to regulate the conduct of war, so as to provide protection for civilians. Two important principles were established regarding civilians, especially in civilian centres:

1. The principle of distinction, which distinguishes between combatants and civilians and strictly prohibits targeting the latter.
2. The principle of proportionality, which requires that all possible effort must be taken to prevent harm to civilians or civilian objects when attacking a legitimate military target and that the incidental damage caused to uninvolved civilians must not be greater to the concrete and direct military advantage achieved. The Israeli High Court of Justice provided a good example of what is allowed and prohibited when it addressed this issue:

"Take the usual case of a combatant, or of a terrorist sniper shooting at soldiers or civilians from his porch. Shooting at him is proportional even if as a result, an innocent civilian neighbour or passer-by is harmed. That is not the case if the building is bombed from the air and scores of its residents and passersby are harmed."⁹

It is true that these principles have been violated countless times by regular armies, militias and guerrilla forces since these conventions were ratified. However, according to the decision quoted above, neither the violations in other conflicts nor those carried out by Hamas can justify Israeli violations.

Therefore the questions that must be asked are:

1. Did the IDF honour the principles of distinction and proportionality?
2. Did the IDF do whatever it could to prevent harm to civilians?
3. Did the IDF adopt and implement a new combat doctrine during Operation Cast Lead?

To answer these questions we will examine:

⁹ Israeli Supreme Court, HCJ 769/02, **The Public Committee Against Torture in Israel v. The Government of Israel**, December 2006, art. 46:

http://elyon1.court.gov.il/files_eng/02/690/007/A34/02007690.a34.pdf

- The number of innocent civilians killed during the operation and the scope of destruction to civilian property. If these are found to be of a greater magnitude than the advantage gained by attacking acceptable military targets, this would cast serious doubt on Israel's contentions.
- The statements of senior Israeli figures prior to the operation regarding the IDF's new strategy. Did the IDF intend to make a real effort to minimise harm to Palestinian civilians?
- Remarks made by Israeli political leaders, senior officers and soldiers during the operation and in its immediate aftermath, about their actions and conduct. Did these statements indicate restraint, as Israel claims, or unrestrained aggression?

It is important that all these indicators are taken into account when assessing what led to the large scale of death and destruction during Operation Cast Lead.

To examine these issues the report has been divided into two main sections which reflect the two components that constituted the IDF's combat doctrine during Operation Cast Lead:

1. The policy of "no risk" to IDF soldiers, even at the expense of Palestinian civilian casualties.
2. The "Dahiye Doctrine" of deterrence through the use of massive and disproportionate force.

Beforehand, we shall examine the differing figures provided regarding the numbers of Palestinians killed during Operation Cast Lead.

II. Civilian Deaths : The Numbers Game

Over a thousand Palestinians were killed during Operation Cast Lead. Even according to the minimalist figures provided by Israeli army sources, 1166 Palestinians were killed.¹⁰ The Palestinian Centre for Human Rights (PCHR) concludes that 1417 Palestinians were killed,¹¹ while the reports by Amnesty International and the Independent Fact Finding Committee on Gaza to the League of Arab States provide similar numbers.

Source:	PCHR¹²/ Al Mezan¹³ March 12, 2009	B'Tselem¹⁴ September 9, 2009	IDF Spokesperson¹⁵ March 26, 2009
Combatants	236	330	709*
Civilians	981	773	295
Police	196	248	-*
Unclassified males aged 16-50	-	36	162
Total Killed	1413	1387	1166
% Combatants	16.7%	23.8%	60.8%
% Civilians	69.4%	55.7%	25.3%

* According to the IDF, police are included amongst the combatant count

As can be seen from the table above, there is a significant difference regarding the total number of Palestinian casualties during Operation Cast Lead between the IDF on the one hand, and other reports on the other hand. Even more striking is the gap regarding the distribution of deaths by demographic category. The IDF contends that more than 60 percent of those killed were combatants and "only" 25 percent were uninvolved civilians, whereas the other sources report a much higher percentage (55-65 percent) of civilian fatalities. Indeed, according to those reports over than 100 women and 300 children were killed. How can we reconcile the huge differences, especially regarding the proportion of uninvolved civilians who were killed during Operation Cast Lead?

Obviously each side wishes to present a different picture. Israeli officials wish to show that the majority of those killed were legitimate military targets, whereas the Palestinians wish to emphasize the numbers of civilians. As noted above, a high proportion of civilian casualties would give weight to the contention that the IDF did not honour the principles of distinction and proportionality.

¹⁰ IDF spokesperson, **Vast Majority of Palestinians Killed in Operation Cast Lead Found to be Terror Operatives**, March 26, 2009: <http://dover.idf.il/IDF/English/Press+Releases/09/03/2601.htm>

¹¹ The Palestinian Centre for Human Rights (PCHR), **PCHR Contests Distortion of Gaza Strip Death Toll**, March 26, 2009: <http://www.pchrgaza.org/files/PressR/English/2009/44-2009.html>

¹² Ibid. The figures provided by the Al Mezan Center for Human Rights are similar. The figures in the table here are an average from these two sources.

¹³ Al Mezan Center for Human Rights, **Cast Lead Offensive in Numbers**, table 2, page 7, August 2009: <http://www.mezan.org/upload/8941.pdf>

¹⁴ B'Tselem, Ibid., pp. 1-2.

¹⁵ **Vast Majority of Palestinians Killed....**, Ibid.

Whereas the other sources provided detailed lists of those killed¹⁶, Amnesty International states that Israeli officials have not produced such lists.¹⁷ Therefore, it is difficult to confirm the Israeli assertion that most of those killed were enemy combatants. In addition, several points must be raised regarding the Israeli methodology for the classification of those killed:

- Israel regards all the Palestinian police, including cadets who were killed at the beginning of the operation on December 27, as combatants or potential combatants, whereas all international organizations, including the International Committee of the Red Cross (ICRC), classify police as civilians unless it can be shown that they took part in the combat. In any case, other sources reported on the police officers who were killed in a category separate from combatants or civilians. By "annexing" some 200 police to list of the combatants Israel has seriously inflated the number of combatant casualties; **In fact, if they did not include the Palestinian police then the IDF Spokesperson would itself confirm that fewer than 50 percent of those killed were combatants.**
- Israel considers anyone connected to Hamas to be a combatant. As in the case of the police, this is contrary to the accepted definition of distinction, and redefines civilians as combatants, in clear breach of IHL. A spokesperson for the Israeli army told the BBC:
*"Our definition is that anyone who is involved with terrorism within Hamas is a valid target. This ranges from the strictly military institutions and includes the political institutions that provide the logistical funding and human resources for the terrorist arm."*¹⁸
- According to the IDF spokesperson, 162 men between the ages of 16-50 were not classified by Israel, which is to say that they were not able to find any connection between them and the combatants, even by the rather broad standards cited above. This methodology points to an Israeli premise that any Palestinian man in this age group is considered a "potential terrorist" unless otherwise proven, and allows the IDF to remove them from the ranks of uninvolved civilians.

Finally, **only one day before** the IDF spokesperson released the figures quoted above, the IDF's Coordination and Liaison Authority for the Gaza Strip released a different document to the press in which the number of Palestinian casualties was significantly different:

¹⁶ See PCHR: <http://www.pchrgaza.org/files/PressR/arabic/2008/list.pdf>

¹⁷ Amnesty International, **Israel/Gaza: Operation "Cast Lead"...**, Ibid., p.6-7.

¹⁸ BBC News, **Gaza Stories: Israeli Minister**, February 9, 2009:
http://news.bbc.co.uk/1/hi/world/middle_east/7878711.stm

Source:	IDF Coordination and Liaison Authority¹⁹ March 25, 2009	IDF Spokesperson March 26, 2009
Combatants	~606	709
Civilians	309	295
Police	-	-
Unclassified Men 16-50	~320	162
Killed by Hamas	14	-
Other Unidentified	121	-
Total Killed	1370	1166
% Combatants	~44.2%	60.8%
% Civilians	~22.6%	25.3%

When the figures are compared it is striking that within the course of 24 hours around 200 Palestinians were stricken from the casualty list and over 100 combatants were revealed. In addition, the IDF spokesperson "marked down" the civilian casualties to below 300. The number of casualties which the IDF had trouble classifying was reduced by almost 300 in a mere day. Strikingly, the CLA estimates are similar to those provided by the other sources. The fact that the IDF contradicts itself, without providing the details on which it based either set of figures, casts serious doubts about the figures it provided.

When all these factors are considered, it is reasonable to conclude that the number of protected persons killed during Operation Cast Lead was larger than that of the combatants, and that the casualty estimates provided by other sources (around 1400 killed) are more credible than those provided by the IDF Spokesperson.

¹⁹ Ha'aretz, IDF: **600 Hamas men, 309 civilians died in Gaza offensive**, Amos Harel, March 25, 2009: <http://www.haaretz.com/hasen/pages/1073770.html>

III. The "No Risk" Policy

A) "Not one hair will fall off a soldier of mine"

Even had we accepted the figures provided by Israel, the total number of people and the number of civilians killed during Operation Cast Lead is significantly larger than that of any IDF operation in the Occupied Palestinian Territories in the past. By contrast, during the five weeks of Operation Defensive Shield in 2002, the most destructive operation before Operation Cast Lead, nearly 500 Palestinians were killed.²⁰

In an article published on January 18, 2009 Professor Yagil Levy notes a marked change in the casualty ratio between IDF soldiers and Palestinian civilians in the Gaza Strip since the First Intifada.²¹ According to his figures the ratio was 1:6 (soldiers/civilians) during the First Intifada, and increased to 1:9 during the Al-Aqsa Intifada. After the Israeli disengagement from inside the Gaza Strip in August 2005 the ratio grew to 1:33. However during Operation Cast Lead, using the figures provided by B'Tselem as Levy did in his article, the ratio grew to a staggering **73 Palestinian civilians killed for every IDF soldier.**

All this begs the question: Why were there so many casualties and especially civilian casualties during Operation Cast Lead?

Israeli military and government officials were faced with the challenge of dealing with two different media audiences, to each of which they had to relay different and often contradictory messages: the Israeli public and international public opinion. To the world Israel had to demonstrate that the attack was proportional and that precautions were taken to limit civilian casualties and destruction, in accordance with IHL principles.

During the course of Operation Cast Lead Israeli officials constantly reiterated that although the operation was against "the terrorist organization Hamas" and not against the civilians in the Gaza Strip, the fighting took place in the heart of the civilian population, a situation that was dictated by Hamas. In addition Israel stated that Hamas also booby-trapped houses and fired from within schools. Israeli officials further pointed out that the IDF made unprecedented efforts to reduce civilian casualties, by warnings such as distributing millions of leaflets, radio broadcasts and thousands of phone calls to civilians. In addition soldiers were instructed to apply maximum caution in civilian areas.

However the internal political necessity, which mirrors Israeli public opinion, dictates a completely different policy. Changes in Israeli society have lessened its willingness to accept sacrifices in war, as Prof. Levy points out in his

²⁰ See United Nations Press Release SG2077 **Report of Secretary-General on recent events in Jenin, other Palestinian cities**, August 1, 2002:

<http://www.un.org/News/Press/docs/2002/SG2077.doc.htm>

²¹ Ha'aretz, **Why did the killing increase?** (Hebrew), Prof. Yagil Levy, January 18, 2009: <http://www.haaretz.com/hasite/spages/1056373.html>

article.²² At the same time, the legitimacy to use massive force against the Palestinians in Gaza has increased, especially since the 2005 "disengagement" and the continued shooting from the Gaza Strip at Israeli civilian targets. Israeli public opinion as reflected in the media required a powerful response to the missile attacks on southern Israel, while also making sure that **Israeli military casualties be minimized**. The principal way to do this was to allow soldiers to open fire on anything that the soldiers thought might endanger them, even if there was no tangible threat.

Testimonies to this effect appear repeatedly in soldiers' statements. For instance in a recording aired on Israeli Channel 10, a junior officer briefs his men before entering Gaza:²³

"We're going into war. Be aware: we're not on a routine security mission, or anything else.

I want aggression! If we suspect a building we take down this building! If there's a suspect in one of the floors of that building we shell it. No second thoughts. If it's either them or us, let it be them. No second thoughts.

If someone approaches us, unarmed, and keeps coming despite our warning shot in the air, he's dead.

No one has second thoughts. Let errors take their lives, not ours.

This is the mindset. War."

Another soldier's testimony reinforces this:

"He (the battalion commander) said it and at the moment I was quite sure of what he meant. I pretty much agreed with him. He said: Not one hair will fall off a soldier of mine, and I am not willing to allow a soldier of mine to risk himself by hesitating. If you are not sure – shoot. If there is doubt then there is no doubt. We understood this and said that it's not because people wanted to kill, to collect hits or glory. It's because they wanted to preserve human lives at any cost. We all know, we're all living in this country and know that the soft belly is casualties in all of the wars, and they simply wanted to stick to this, perfectly."²⁴

This concept reflects the code formulated by the philosopher Prof. Asa Kasher, one of the authors of the IDF Ethical Code of Conduct. In an article that appeared in *Ha'aretz* in February 2009, Prof. Kasher related to the IDF's conduct during Operation "Cast Lead":

*"The norms followed by the commanders in Gaza were generally appropriate', Kasher said. In Kasher's opinion there is no justification for endangering the lives of soldiers to avoid the killing of civilians who live in the vicinity of terrorists. According to Kasher, **IDF Chief of Staff Gabi Ashkenazi 'has been very familiar with our principles from the time the first document was drafted in 2003 to the present.'***

²² Ibid.

²³ See Israel Channel 10 News, Friday with Drucker and Shelach, **Two months after Operation Cast Lead the real stories begin to emerge**, March 20, 2009:

<http://news.nana10.co.il/Section/?SectionID=2176&pagenum=1>

²⁴ Breaking the Silence, **Soldiers' Testimonies from Operation Cast Lead**, July 2009, testimony 7: http://www.breakingthesilence.org.il/oferet/ENGLISH_oferet.pdf

*Kasher's argument is that in an area such as the Gaza Strip in which the IDF does not have effective control **the overriding principle guiding the commanders is achieving their military objectives. Next in priority is protecting soldiers' lives, followed by avoiding injury to enemy civilians.***

*Sending a soldier there to fight terrorists is justified, but why should I force him to endanger himself much more than that so that the terrorist's neighbour isn't killed? I don't have an answer for that. From the standpoint of the state of Israel, the neighbour is much less important. I owe the soldier more. **If it's between the soldier and the terrorist's neighbour, the priority is the soldier**".²⁵*

The order of priority is reiterated almost verbatim in a television report which quotes the briefing given to the paratroop brigade, by the brigade commander Col. Herzl Halevy:

"first complete the mission, after defend the soldiers' lives and finally minimize the damage to the Palestinian civilian population".²⁶

B) "The smoke projectiles may, on occasion, produce incidental incendiary effects"

An additional question that must be raised is why the IDF made use of indiscriminate weapons and how this can be reconciled with the Israeli contention that it was careful to minimise harm. A good example of this was the controversial use of white phosphorous munitions (WP) within civilian centres.

Reports by human rights organisations adequately document the use of WP munitions and note specific casualties that resulted from their use. Despite this the Israeli authorities claim that the various reports do not conclusively prove how and to what extent WP munitions were used; they even cast doubts on whether there were fatalities. Yet it should be noted that it was the IDF which denied entrance into the Gaza Strip during the time of the operation to observers from groups such as Physicians for Human Rights – Israel, and Human Rights Watch, which published a report on the use of WP munitions.²⁷ In the beginning of the operation, Israel's immediate response was that WP wasn't being used. On January 7, an IDF spokesman told CNN:

"I can tell you with certainty that white phosphorus is absolutely not being used."²⁸

²⁵ See *Ha'aretz*, **The Philosopher who gave the IDF moral justification in Gaza**, Amos Harel, February 6, 2009: <http://www.haaretz.com/hasen/spages/1062127.html>

²⁶ See Channel 10 News, *"I'm not ashamed"*, Channel 10, January 23, 2009. Available at: <http://news.nana10.co.il/Article/?ArticleID=611758&sid=126&typeid=1&pid=48>

²⁷ Human Rights Watch (HRW), **Rain of Fire**, March 2009: <http://www.hrw.org/en/reports/2009/03/25/rain-fire>

²⁸ CNN, **Group Accuses Israel of Firing White Phosphorus into Gaza**, January 12, 2009: <http://edition.cnn.com/2009/WORLD/meast/01/12/white.phosphorus/index.html>, accessed September 28, 2009.

Peter Herby, head of the ICRC's Arms Unit, gave an interview, despite the ICRC's practice of avoiding public comments, following Israeli statements that the ICRC had found no illegal use of WP during the operation. Herby refrains from explicitly commenting on particular cases of use of WP, but clarifies the prohibitions and limitations of use of such weapons:

*"Using white phosphorous as an **incendiary weapon**, i.e. to set fire to military targets, is subject to further restrictions. The use of such white phosphorous weapons against any military objective within concentrations of civilians is prohibited unless the military objective is clearly separated from the civilians. The use of **air-dropped incendiary weapons** against military objectives within a concentration of civilians is simply prohibited. These prohibitions are contained in Protocol III of the Convention on Certain Conventional Weapons."*²⁹

There is no room for doubt that the IDF used WP smoke projectiles in urban centres where it was impossible to differentiate between civilians and military objectives. In addition to the testimonies by Palestinians, and various photographs which clearly show the munitions raining down on the streets of Gaza, we have Israel's own testimony:

*"The obscurant smoke shells were used by the IDF for military purposes only (e.g. camouflaging armoured forces from anti-tank squads deployed by Hamas in **Gaza's urban areas**), and were not aimed at civilians. The use of smoke obscurants proved to be highly effective at cloaking IDF forces and obstructing enemy lines of sight."*³⁰

This contention is, in fact, consistent with the IDF's order of priority: first accomplish the mission, second protect IDF soldiers and only after that minimise damage to Palestinian civilians. In choosing to use WP in a manner that risked civilians, the IDF acted in a way that was precisely consistent with its combat doctrine.

Israel contends that WP was used only as smokescreen to protect IDF forces, and not for other purposes:

*"The munitions were used only for the purpose for which they were designed, i.e. to create smoke screens, rather than to attack personnel or destroy buildings."*³¹

However, according to the testimonies of IDF soldiers who took part in the operation, at the very least the munitions were used to detonate buildings which were suspect of being booby-trapped, once again highlighting the no-risk policy to IDF soldiers:

"The story was that a house was seriously suspected of containing explosive charges. There was also intelligence information about tunnels and the like. Naturally a shell was fired, that didn't do too much. We didn't get the indication we wanted, so the artillery forces decided to target this house, and they were the ones using phosphorus. That's what actually happened. I don't remember whether they fired just one shell or more, I think there were several used. This house went up in flames. Later there were secondary blasts and shelling into

²⁹ See ICRC, **Phosphorous weapons – the ICRC's view**, Interview with Peter Herby, January 17, 2009: <http://www.icrc.org/web/eng/siteeng0.nsf/html/weapons-interview-170109> , accessed September 3, 2009.

³⁰ **The Operation in Gaza: Factual and Legal Aspects**, Ibid., Art. 415

³¹ Ibid., Art. 419

Israeli area and so that house was rightly suspect. But 'exploding smoke' was definitely used there.

Did the phosphorus hit just the house?

I don't know for sure. I saw it because I was on guard duty that night. It creates a kind of umbrella. It explodes several dozen meters above the house and forms an umbrella of fire on the house. To tell you that it was pinpoint precision? Artillery never achieves pinpoint precision. But I know that the artillery officer said the hit was on target."³²

C) "We took all possible precautions"

Since the beginning of the operation Israeli officials have, in official statements, especially outside of Israel, presented a picture whereby the Israeli operations were carried out in accordance with international humanitarian law, and that they went to great lengths to minimise damage:

"The Paper addresses the acute dilemmas faced by Israel in confronting an adversary using its own civilian population as a shield. It details the extensive precautions taken by the IDF to avoid or limit harm to civilians in Gaza, while still having to achieve the necessary objective of stopping Hamas' constant rocket and mortar fire on Israeli civilians and property. The IDF not only checked and cross-checked targets and used the least destructive munitions possible to achieve legitimate military objectives; it also implemented an elaborate system of warnings, including general warnings to civilians (through media broadcasts and leaflets) to avoid or minimise the presence of civilians in areas and facilities used by Hamas, regional warnings to alert civilians to leave specific areas before IDF operations commenced, and specific warnings (through telephone calls and warning shots to rooftops) to warn civilians to evacuate specific buildings targeted for attack. The IDF dropped more than 2.5 million leaflets and made more than 165,000 phone calls warning civilians to distance themselves from military targets."³³

There is no question that Hamas and others committed war crimes both in firing on Israeli civilian population, and in firing from within civilian population. However, according to IHL, the fact that one side to the conflict carries out violations does not legitimise violations by the other side.³⁴

According to the 1977 Additional Protocol I to the Geneva Conventions, those who plan an attack must take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.³⁵ It is clear that those

³² **Soldiers' Testimonies...**, Ibid., Testimony 27.

³³ **The Operation in Gaza...**, Ibid., Art. 8.

³⁴ International Committee of the Red Cross(ICRC), **Customary Law Rules**, Rule 140:

[http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/customary-law-rules-291008/\\$FILE/customary-law-rules.pdf](http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/customary-law-rules-291008/$FILE/customary-law-rules.pdf)

³⁵ See Article 57, paragraph 2 (a) (ii).

who wrote the Israeli report cited above are well aware of these rules, which they claim the IDF honoured. Do the events and the field reports support this picture? Let us examine the following test case.

Test case: The Israeli Air Force Leaflets and The bombing of Rafah, A chronicle of the IDF's "warnings" to the Palestinians during Operation Cast Lead

According to the Israeli Ministry of Foreign Affairs, over 2.5 million leaflets were dropped before attacks. However, various reports have pointed out that the leaflets were dropped all over Gaza, without indicating to people where they were supposed to evacuate to. If one considers the limited size of the Gaza Strip, this renders the warnings ineffective.³⁶ In addition the reports note that in many cases the civilians had nowhere to escape to, as much of the Gaza Strip was being attacked simultaneously and the borders were sealed.³⁷

An illuminating example of this can be witnessed through the news broadcasts of all three Israeli television networks regarding the massive bombing of the entire Rafah area on the evening of January 7, 2009.

7:36 PM: Ehud Ya'ari, the Channel 2 commentator on Arab affairs announces that the IDF, which had dropped leaflets all day informing the residents of the Rafah area of an impending attack, scattered leaflets at 7:30 PM demanding that they evacuate the area by 8:00 PM.³⁸

7:48 PM: Ya'ari announces 13 minutes remain for the residents to evacuate, but that they are already hearing bombings going on.

8:07 PM: Ya'ari announces that he has a correction regarding the ultimatum to the 30,000 residents in Rafah in the areas that border the Philadelphi Route, between the Rafah border crossing and the sea. The ultimatum is to evacuate **by 8:00AM on the following morning**. He reiterates that his earlier statement was a mistake. He further adds that he doesn't know if the residents are evacuating.

8:24 PM: Ya'ari announces that the attack has begun.

8:24 PM: Yoav Limor, the military correspondent for Channel 1 reports that a massive attack on Rafah is going on with many planes and explosives.³⁹

8:25 PM: Alon Ben-David, the military correspondent for Channel 10, reports that they are starting to receive reports about a massive Israeli Air Force (IAF) attack on Rafah, after 150,000 leaflets were scattered over Rafah, calling on the residents to evacuate the Rafah area.

He then commented that it has to be said that they don't really have anywhere to

³⁶ Amnesty International, Ibid., p 50-51.

³⁷ Ibid.

³⁸ Israel Channel 2 news, January 7, 2009:

<http://www.mako.co.il/vod-index/news-news-2009/jan/VOD-53e0fc874e2be11004.htm>

³⁹ IBA Channel 1 news, (recorded) January 7, 2009.

run to since the IDF has cut off Rafah from the rest of the Gaza Strip to north, and is bombing the southern border.⁴⁰

8:40 PM: The IDF spokesperson confirms that leaflets announcing the attack were scattered over the houses in Rafah.

10:27 PM: Ben-David comments that it is exceptional that the IDF calls on the residents of an entire city to evacuate their houses, as it did this evening. He adds that it is unclear whether the residents have evacuated, noting that during the last hour the earth has been shaking in Rafah from the dozens of tons of bombs that the IAF has dropped around the Philadelphi route. He adds that the IDF is also operating in the central part of the Gaza Strip.

10:31 PM: Tzvi Yehezkeili, the Channel 10 commentator on Arab affairs, translates from the full text of the leaflets dropped on Rafah, informing all of the residents in the areas adjacent to the border of the upcoming attack, including a ground offensive and aerial bombings, and that they give them until 8 AM the next morning to leave their houses.

Here is a clearly documented and large-scale case, reported in real time, that the IDF only paid lip service regarding the warnings to civilians to minimize damage wherein:

1. The warnings do not indicate where it is safe to evacuate to.
2. According to Israeli media sources, the civilians have nowhere to go.
3. The attack commences almost 12 hours before the ultimatum time indicated on the leaflets.

D) "Anyone seen out on the street is not innocent, and is doomed to die"

According to the ICRC, having given warning does not absolve the attacking force from the obligation to verify that civilians are not present. However, according to testimony given by Israeli soldiers this was not the case:

"If we detect anything that should not be there – we shoot. We're told the air force distributed flyers telling everyone to go to Gaza City. If beyond this line any people are detected – they are not supposed to be there.

Q: It's a city, you know. Flyers were distributed, but people are bound to be on the move, obviously there would be civilian traffic. It's not a military area. People live there. No one addressed this in briefings? Commanders, anyone?

No distinction was to be made between people and civilians, such as would escape in your directions? There are plenty of possible scenarios.

*That's right. No special mention was made of innocents.*⁴¹

⁴⁰ Israel Channel 10 news, January 7, 2009:

<http://news.nana10.co.il/Article/?ArticleID=607889&sid=126&typeid=1&pid=48>

⁴¹ **Soldiers' Testimonies...**, Ibid., Testimony 8.

Another soldier adds:

"In urban warfare, anyone is your enemy. No innocents. It was simply urban warfare in every way...

In general people (Palestinians) came downstairs, we'd order them to go over there, point in some direction and tell them to go there. They'd protest, 'But this is our home. We have nowhere to go,' and we... These were the orders, if not on the battalion level, then from the brigade or a general army instruction. I don't know. But it's not something the platoon or company commander decided on the spot. It was obvious when we went in that the people are not allowed to stay inside the houses. We directed them towards a certain area hoping they wouldn't be hit there."⁴²

In other words, many of the field commanders ordered civilians who had stayed put in their homes to evacuate into the streets. Brigadier-General (res.) Tzvi Fogel, who was the Commander of the Fire-power Centre during the operation, had overall responsibility for the fire policy during Operation Cast Lead, **made it clear what would happen to anyone evacuated from their house into the street:**

"There were flyers out, we sent messages over local radio and TV, and it was obvious that whoever did not take part in the fighting either evacuates or stays indoors, but does not move outside. Thus, it sounds logical that anyone seen out on the street is not innocent, and is doomed to die."⁴³

The official statements made by high-ranking IDF officers corroborate this.

In a report about the operation on March 16, 2009 Israeli Channel 10 news reported about how the IDF's rules of engagement policy were outlined to the Knesset Committee for Foreign and Security Affairs during the time of the war:

"The troops will be preceded by a ferocious pillar of fire. After the shooting, the warnings, anyone remaining in the area, in one of the most densely populated urban sites in the world is either a terrorist or knows the price to pay."⁴⁴

In other words, the actual rules of engagement were that anyone found in the streets, regardless of their status, or whether IDF commanders had forced them out into the streets, was marked for death. The orders which forced civilians in Gaza to go out into the streets turned many of them, if through negligence rather than intent, into targets for other IDF forces.

In the light of the above it must be concluded that the IDF placed paramount importance on the safety of its soldiers, while disregarding the safety of Palestinian civilians, in accordance with Kasher's combat doctrine.

⁴² Ibid., Testimony 7

⁴³ **Two months after Operation Cast Lead...**, Ibid., (See footnote no. 23).

⁴⁴ Ibid.

IV. The "Dahiye Doctrine"

A) "This is the plan and it has already been authorized"

The policy of protecting soldiers' lives, even at the cost of harming uninvolved civilians, cannot by itself explain the large number of casualties in the first week of the operation, when at least 470 Palestinians were killed. The attack during the first week was based largely on attacks by the Israeli Air Force (IAF), with the support of the Israeli Navy and artillery, whereas the ground forces only commenced their operations on January 3, 2009. Therefore, it is essential that we look for a more comprehensive answer to the scale of death and destruction during Operation Cast Lead. Part of that answer derives from the Second Israeli war in Lebanon.

The Israeli public's desire to protect itself and its soldiers has been greatly influenced by the outcome of the Second Israeli war in Lebanon in the summer of 2006. During 34 days Israel was frustrated in its attempt to stop the Hezbollah from firing rockets against Israel and 44 Israeli civilians were killed. Even more traumatic for many Israelis was the fact that 119 Israeli soldiers were killed during the war.⁴⁵ The mood was so charged that a state commission was appointed to examine the failures of the war.

Two years later, in the beginning of October 2008, the Commanding Officer of the IDF's Northern Command, Maj. General Gadi Eisenkott, gave an interview to *Yedioth Ahronoth* newspaper, in which he unveiled what he called the "Dahiye Doctrine":

"What happened in the Dahiye Quarter of Beirut in 2006, will happen in every village from which shots are fired on Israel. We will use **disproportionate force** against it and we will cause **immense damage and destruction**. From our point of view **these are not civilian villages but military bases**.

This is not a recommendation, **this is the plan, and it has already been authorized.**"⁴⁶

Eisenkott's statements were made a little more than two years after the war in Lebanon, in which over 34 days Israel carried out more than 10,000 bombings, which caused the death of over 1100 people, and injuries to an additional 4000. In addition tens of thousands of residential buildings, offices and shops were destroyed.⁴⁷ In the same article Eisenkott states:

*"In the Second Lebanon War we used a great deal of bombs. How else were 120,000 houses destroyed?"*⁴⁸

⁴⁵ Israel Ministry of Foreign Affairs, **Israel-Hizbullah conflict: Victims of rocket attacks and IDF casualties**, August 2006: <http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Terrorism+from+Lebanon-+Hizbullah/Israel-Hizbullah+conflict-+Victims+of+rocket+attacks+and+IDF+casualties+July-Aug+2006.htm>

⁴⁶ Yedioth Ahronoth (Hebrew), **I have incredible power, I'll have no excuse.**, Saturday Supplement, October 3, 2008, by Alex Fishman and Ariela Ringel-Hoffman.

⁴⁷ Amnesty International, **Lebanon: Deliberate destruction or "collateral damage"?**, August 2006, p.2: <http://www.amnesty.org/en/library/info/MDE18/007/2006>

⁴⁸ Yedioth Ahronoth, Ibid.

Most devastated was the Dahiye quarter in Beirut, a large Shiite neighbourhood which served as headquarters for the Hezbollah. According to many reports Dahiye was largely destroyed during the war.

At the same time Eisenkott made this statement, two months before Operation Cast Lead, the Institute for National Security Studies, a think-tank at the Tel Aviv University which reflects the mainstream of Israeli military thinking, published an article by Dr. Gabriel Siboni, a colonel in IDF reserves. The article's title was:

"Disproportionate Force: Israel's Concept of Response in Light of the Second Lebanon War".⁴⁹ In the article Siboni expresses an identical approach to that of Eisenkott, which he relates in greater detail:

"With an outbreak of hostilities, the IDF will need to act immediately, decisively, and with force that is disproportionate to the enemy's actions and the threat it poses. Such a response aims at inflicting damage and meting out punishment to an extent that will demand long and expensive reconstruction processes. The strike must be carried out as quickly as possible, and must prioritize damaging assets over seeking out each and every launcher. Punishment must be aimed at decision makers and the power elite... attacks should both aim at Hezbollah's military capabilities and should target economic interests and the centers of civilian power that support the organization."

In a subsequent paragraph Siboni makes it clear that:

"This approach is applicable to the Gaza Strip as well. There, the IDF will be required to strike hard at Hamas and to refrain from the cat and mouse games of searching for Qassam rocket launchers. The IDF should not be expected to stop the rocket and missile fire against the Israeli home front through attacks on the launchers themselves, but by means of imposing a ceasefire on the enemy."

The military approach expressed in the Dahiye Doctrine deals with asymmetrical combat against an enemy that is not a regular army and is embedded within civilian population; its objective is to avoid a protracted guerilla war. According to this approach Israel has to employ tremendous force disproportionate to the magnitude of the enemy's actions. The intent of this, as we shall see later in the words of Major General Giora Eiland, is to harm the civilian population to such an extent that it will bring pressure to bear on the enemy combatants. Furthermore, this policy is intended to create deterrence regarding future attacks against Israel, through the damage and destruction of civilian and military infrastructures which necessitate long and expensive reconstruction actions which would crush the will of those who wish to act against Israel.

⁴⁹ INSS Insight No. 74, Disproportionate Force: **Israel's Concept of Response in Light of the Second Lebanon War**, Gabriel Siboni, October 2, 2008:
<http://www.inss.org.il/publications.php?cat=21&incat=&read=2222>

B) "We can do things that are devastating"

In order to understand the context in which Operation Cast Lead was framed we must examine how the principles of the doctrine were applied.

According to the Dahiye Doctrine, Israel will achieve deterrence not by attacking individual rocket launchers, but rather by using disproportionate force which will influence the behaviour of its opponents.

Lt. Col. Ofer Levy, the Deputy-Commander of the Givati Brigade, which operated in the Zeitoun neighbourhood of Gaza during the ground assault stated:

*"Our combat was very, very aggressive. With very heavy firepower, a great deal. At levels that veteran soldiers and senior commanders never encountered before. We have direct aid from fighter planes and helicopters, from whatever we have available."*⁵⁰

On January 16, 2009, Channel 10's military correspondent, Alon Ben-David presented an interview with an IAF pilot during Operation Cast Lead:

Alon Ben-David: *"During the entire history of the bloody conflict, never have so many explosives been dropped on the Gaza Strip as in the past three weeks. The IAF carried out 2500 attacks on Gaza, which is to say that the IAF alone rained something like 1000 tons of explosives on Gaza."*

Micha, deputy F-15 squadron leader: *"I don't think it's correct to return a rocket for a rocket, for 8 years we showed restraint, we reacted proportionately or less than that, but I think, once again, these are my thoughts, that the time has come to stop with this, and if we have to use all our firepower, then we'll use it."*

Alon Ben-David: "Israel isn't trying to hide the fact that it reacts disproportionately".⁵¹

However, the clearest indication of Israel's intent comes from the then Israeli Prime Minister Ehud Olmert himself. In the lead-up to Operation Cast Lead, On December 25, 2008, Olmert delivers a clear warning to the public in the Gaza Strip:

*"I'm telling them to stop it. We are stronger; there will be more blood there. We have power, enormous power; we can do things that are devastating."*⁵²

⁵⁰ Israel Channel 2 news, January 8, 2009:

<http://www.mako.co.il/vod-index/news-news-2009/jan/VOD-addc0766de7be11004.htm>

⁵¹ Israel Channel 10 News, Friday with Drucker and Shelach, **Guarding us from Above**, January 16, 2009. Available at: <http://news.nana10.co.il/Section/?SectionID=2176&pagenum=4>

⁵² Israel Channel 10 News, The Central Edition, December 25, 2008:

<http://news.nana10.co.il/Section/?SectionID=2174&pagenum=99>, accessed on September 28, 2009

While summing up after the operation, Olmert reiterated Israel's doctrine of deterrence:

"Our response will be disproportionate. We won't go back to the rules that the terrorist organisations tried to dictate."⁵³

According to the doctrine, massive destruction is a necessary element for creating deterrence. The damage must be done not only to military installations, or explained by concrete military necessity, but must include civilian infrastructure so that reconstruction will be expensive and time consuming. In this light we can understand why at the very beginning of Operation Cast Lead there was intentional targeting of government buildings and public buildings, and not only attacks against military targets.

In a series of announcements at the beginning of the operation the IDF spokesperson states numerous times its list of targets:

- *"During the course of the night IAF planes attacked buildings in the Hamas government compound in the Tel El-Hawe neighbourhood in Gaza City...
In the course of the attack three seven-story buildings that comprise the Hamas government compound were bombed."⁵⁴*
- *"The Israeli Air Force struck the office of the Hamas Prime Minister Ismail Haniyeh overnight. The office is used as a center for the planning, support and financing of terrorist activities against Israel. In addition, the office of the interior ministry, located in the same area, was also attacked. These offices of the Hamas government are located in Gaza City, and are considered a strategic target..."*

The IDF will continue its mission, attack the infrastructure and buildings that Hamas is using, and will operate against terrorist organizations and anyone who provides support to terrorism.⁵⁵

- *"Three buildings in the Hamas Government campus were attacked and rendered unusable. Offices of ministers and deputy ministers and the senior staff of the Treasury, Foreign Ministry, Labour Ministry and the Housing Ministry were included in the attack."⁵⁶*

In order to ensure that the destruction would be complete, thus rendering the reconstruction expensive and painful, the planes attack once again in order to verify the destruction:

⁵³ Israel Channel 2 news, February 1, 2009. Available at:
<http://www.mako.co.il/news-military/security/Article-34a141791e03f11004.htm>

⁵⁴ IDF Spokesperson, December 2008:
<http://dover.idf.il/IDF/English/Press+Releases/2008/12/default.htm>

⁵⁵ IDF Spokesperson, **Summary of Overnight Events**, December 31, 2008. Available at:
<http://idfspokesperson.com/2008/12/31/summary-of-overnight-events-31-dec-2008/>

⁵⁶ IDF Spokesperson, **Buildings in Hamas Government Complex Destroyed**, December 30, 2008:
<http://dover.idf.il/IDF/English/Press+Releases/2008/12/3004.htm>

"The planes attacked a second time to make sure the buildings were rendered useless."⁵⁷

The repeated statements by Israeli officials also make it clear that they see no distinction between the civilian and military branches of Hamas. The IDF spokesperson, Brigadier-General Avi Benayahu frequently reiterated that these attacks were directed against the civilian government:

"There is damage to all of the Hamas organs... during the first days we damaged the police, symbols of governance and government mechanisms."⁵⁸

"The goals of the operation are to hit the Hamas organisation hard; both the military wing and the government."⁵⁹

The statements regarding the policy of destroying the civilian government infrastructure were reiterated by the Israeli government as well. On January 4, 2009 Ovad Yehezkel, the cabinet secretary announced:

"Not much remains of the ruling structure - government buildings, the parliament were destroyed."⁶⁰

The Deputy Prime Minister Haim Ramon added:

"We damaged the Hamas' capability of ruling... we can't accept the existence of Hamastan."⁶¹

C) "Not one stone left standing"

The destruction, however, did not end with the attacks on government institutions. The UN Office for the Coordination of Humanitarian Affairs (OCHA) estimated that 3914 buildings were destroyed, 21,000 housing units were destroyed or badly damaged and about 51,000 people were displaced.⁶²

The report of the independent committee appointed by the Arab League concluded that:

"There was substantial destruction of and damage to property during the offensive. Over 3,000 homes were destroyed and over 11,000 damaged; 215 factories and 700 private businesses were seriously damaged or destroyed; 15 hospitals and 43 primary health care centres were destroyed or damaged; 28 government buildings and 60 police stations were destroyed or damaged; 30 mosques were destroyed and 28 damaged; 10 schools were destroyed and 168

⁵⁷ Ibid.

⁵⁸ Israel Channel 2 news, January 7, 2009:

<http://www.mako.co.il/vod-index/news-news-2009/jan/VOD-53e0fc874e2be11004.htm>

⁵⁹ IBA Channel 1 news, January 4, 2009 (recorded).

⁶⁰ Israel Channel 10 News, The Central Edition, January 4, 2009:

<http://news.nana10.co.il/Section/?SectionID=2174&pagenum=96> , accessed on September 28, 2009.

⁶¹ Israel Channel 2 news, January 4, 2009. Available at:

<http://www.mako.co.il/vod-index/news-news-2009/jan/VOD-9a94e78f433ae11004.htm>

⁶² OCHA, **Gaza Flash Appeal**, p.1, February 2009:

http://www.ochaopt.org/gazacrisis/admin/output/files/ocha_opt_gaza_flash_appeal_2009_02_05_english.pdf

damaged; three universities / colleges were destroyed and 14 damaged; and 53 United Nations properties were damaged."⁶³

In addition there was also major damage to the infrastructure in the Gaza Strip, which if not intentional was certainly caused by gross negligence and disregard towards the civilian population:

*"During the assault, the army received via the Red Cross a list of the locations of all the water installations and sewage facilities in the Gaza Strip; despite this, water wells, water and sewage lines, and sewage facilities were shelled. On 3 January 2009, seven of the twelve power lines that bring electricity from Israel and Egypt to the Gaza Strip were shelled, completely shutting them down."*⁶⁴

The extent of the damage to property was also without precedent. By comparison, according to the UN, during the course of Operation Defensive Shield in 2002 about 900 buildings were destroyed.⁶⁵ During Operation Cast Lead no type of property was left untouched: residences, hospitals, schools, mosques, factories and agricultural fields were demolished by the IDF.

Israel provided several explanations as to the military necessity entailed in the destruction that was carried out. Amongst the reasons for targeting:

- buildings that were suspect of being booby-trapped or containing tunnels
- buildings that were connected to Hamas personnel, according to intelligence sources;
- exposing spaces, through the demolition of buildings or trees, so as to minimize the danger to IDF soldiers.

In addition to the official reasons for house destruction, in soldiers' testimonies we encounter another explanation – "the day after" – in which the work of destruction takes place until the very last moment of the war, in areas completely controlled by the IDF, even when it was known that a cease-fire was going into effect. According to the soldiers, the rationale behind this policy was to enable future control over the area after the withdrawal:

"But then we were told there are houses to be demolished for the sake of 'the day after'. The day after is actually a thought that obviously we're going in for a limited period of time which could be a week and it might also be a few months. But it's not a longer span of time without defining what it is. And the rationale was that we want to come out with the area remaining sterile as far as we're concerned. And the best way to do this is by razing. That way we have good firing capacity, good visibility for observation, we can see anything, we control a very large part of the area and very effectively. This was the meaning of demolition for the sake of the day after. In practical terms this meant taking a

⁶³ **No Safe Place**, report of the Independent Fact Finding Committee to the League of Arab States", p. 3, , April 30, 2009: http://www.lphr.org.uk/gaza2009/Report_IFFC_Gaza.pdf

⁶⁴ **Submission of Human Rights Organizations based in Israel to the Goldstone Inquiry Delegation**, July 2009: <http://www.stoptorture.org.il/en/node/1446>

⁶⁵ **Report of Secretary-General on recent events in Jenin...**, Ibid.

house that is not implicated in any way, that its single sin is the fact that it is situated on top of a hill in the Gaza Strip.

You had served in Gaza for years, was this destruction in any way similar to what you'd known before?

No, no way. This was on a totally different scale. This was fire-power such as I had never known. I can't say that when I had been in Gaza (in the past) the air force wasn't used... But no, the ground was not constantly shaking then. I mean, (now) there were blasts all the time... Whether distant or near, that's already semantics. But our basic feeling was that the earth was constantly shaking. Explosions were heard all day long, the night was filled with flashes, an intensity we had never experienced before. Several D-9 bulldozers were operating around the clock, constantly busy. This was a very different scale of intensity than we had known."⁶⁶

Another soldier casts doubts on the contention that everything was operational when he talks about the destruction done by D-9 tractors:

"The amount of destruction there was incredible. You drive around those neighbourhoods, and can't identify a thing. Not one stone left standing over another. You see plenty of fields, hothouses, orchards, everything devastated. Totally ruined.

"Did you happen to escort D-9s demolishing houses, do you know what they destroyed, why, how many?

The way we worked was in secondary protective positions. After they realized we'd be inside over 72 hours, and that we couldn't stay in our positions, all of us, all of the time, these rear positions were prepared. If they didn't like the looks of some house, if it disturbed or threatened them, then it would be taken down.

But that was for operational needs.

Operational needs. I don't know, maybe half of them. Sometimes the company commander would give the D-9s something to demolish just to make them happy."⁶⁷

The soldiers' testimonies repeatedly corroborate what Palestinians and human rights organisations have maintained: that the destruction was widespread, destroying entire neighbourhoods, and was largely carried out after the IDF had complete control of the areas.

The soldiers who carried out these actions were not acting on their own initiative, but rather within the context of an atmosphere that was created by senior IDF officers and Israeli cabinet members, which intentionally promoted violence and widespread destruction.

⁶⁶ **Soldiers' Testimonies...**, Ibid., Testimony 29.

⁶⁷ Ibid., Testimony 38.

The Yahalom battalion of the Engineering Corps was the unit responsible for clearing routes for the ground forces, and also carried out the detonation and demolition of buildings. During an interview, the battalion commander, Lt. Col Amir indicated to his troops what was expected from them:

*"We are very violent, we use a lot of force, wherever we should against an enemy; and we don't refrain from using any means to ensure that our forces aren't harmed".*⁶⁸

In an interview given shortly after the operation Deputy Prime Minister Eli Ishai stated:

*"We have to determine a price tag for every rocket fired into Israel. If for every small attack we will strike at the infrastructure or houses – the firing will stop."*⁶⁹

D) "Israel demonstrated real hooliganism"

Israel has made a tremendous effort to convince world public opinion that it acted with restraint regarding the civilians in the Gaza Strip and did not violate international humanitarian law during Operation Cast Lead, especially in its detailed response in July 2009.⁷⁰

During the operation the IDF denied entry into the Gaza Strip to journalists and human rights organizations, a situation which allowed them to conceal information, and severely restricted the capability of objective third-party observers from reporting about the effects of the IDF's operations on the civilians.

The almost total ban on entry to reporters (excepting embedded Israeli military correspondents), objective observers and independent inspectors, was exceptional in contrast to all prior Israeli military actions. Delaying the entry of international observers continued even after the ceasefire. These obstacles left the IDF Spokesperson with a clear field to orchestrate its media image of the war. It was almost impossible to confirm or refute its message. Indeed, most of the Israeli media eagerly towed the line drawn by the IDF Spokesperson.⁷¹

The silencing of the events that occurred during the combat did not end with the ceasefire, and continues to this day. An example of this can be seen regarding the efforts of Brigadier-General Benayahu, the IDF Spokesperson, to prevent the major Israeli media from interviewing members of "Breaking the Silence" after the publication of their book of soldiers' testimonies from Operation Cast Lead. The public debate was diverted from a discussion regarding the essence and the

⁶⁸ Israel Channel 2 news, January 7, 2009:

<http://www.mako.co.il/vod-index/news-news-2009/jan/VOD-53e0fc874e2be11004.htm>

⁶⁹ YNet (Hebrew), **Eli Yishai: Destroy 100 Houses Every time that Hamas Fires**, February 2, 2009:

<http://www.ynet.co.il/articles/0,7340,L-3665452,00.html>

Accessed September 28, 2009

⁷⁰ **The Operation in Gaza...**, Ibid., Article 415.

⁷¹ Keshev: The Center for Democracy in Israel, **"We all know that Israeli soldiers don't kill on purpose": The Contribution of the Media Discourse to Unawareness**, March 2009:

<http://www.keshev.org.il/siteEn/FullNews.asp?NewsID=134&CategoryID=9>

characteristics of the testimonies to that of the form of incorporation and the funding that "Breaking the Silence" receives.⁷²

Benayahu and other Israeli spokespeople will probably continue to cast doubt on the testimonies and evidence that have been provided by Palestinian witnesses and upon the reports compiled by what Israel calls "non-objective" Israeli, Palestinian and international organisations. This was especially blatant in the case of the Goldstone mission, which was dismissed as biased from the moment of its inception, and its report was branded as unbalanced before the Israeli authorities had a chance to seriously study it. No doubt they will continue to cast aspersions upon the testimonies given by the IDF's own soldiers.

However, the facts on the ground speak for themselves. But more than that, one cannot deny the statements made in public by senior IDF officers such as Eisenkott or by Israeli cabinet ministers up to and including former Prime Minister Olmert. These statements must be considered together with the massive destruction, the disproportionate number of civilians killed and the testimonies of both Palestinian civilians and Israeli soldiers. The picture that arises from these facts and statements places grave doubt on the contention made by Israeli officials that every possible effort was made to minimise the damage. On the contrary, the picture which emerges points instead to the full implementation of the Dahiye Doctrine during Operation Cast Lead.

Around the time that Eisenkott publicized the doctrine, Maj.-Gen. (res.) Giora Eiland presented his proposal as to how Israel should wage the Third Lebanon War:

*"Such a war will lead to the elimination of the Lebanese military, the destruction of the national infrastructure, and intense suffering among the population. There will be no recurrence of the situation where Beirut residents (not including the Dahiye quarter) go to the beach and cafes while Haifa residents sit in bomb shelters. Serious damage to the Republic of Lebanon, the destruction of homes and infrastructure, and the suffering of hundreds of thousands of people are consequences that can influence Hezbollah's behavior more than anything else."*⁷³

To sum up, not only is it unnecessary to protect civilians in the war zone, but there is a policy of causing suffering to civilians as a means of creating future deterrence.

And, as Siboni pointed out, all this goes for the Gaza Strip as well.

Perhaps the Israeli intentions were best summed up by Foreign Minister Tzipi Livni who was responsible for the decisions taken during Operation Cast Lead, along with Olmert and Defense Minister Ehud Barak. On January 19, 2009, the day after the ceasefire came into effect, in an interview to Channel 10 Livni stated:

*"Israel demonstrated real hooliganism during the course of the recent operation, which I demanded."*⁷⁴

⁷² See Ha'ir (Hebrew), **The Chief Censor**, Lital Grossman and Ofer Matan, July 24, 2009.

⁷³ INSS Strategic Assessment, Volume 11, No. 2, **The Third Lebanon War: Target Lebanon**, Giora Eiland, p. 16, November 2008: <http://www.inss.org.il/upload/%28FILE%291226472866.pdf>

⁷⁴ Israel Channel 10 news, **Livni warns Hamas**, January 19, 2009:

<http://news.nana10.co.il/Section/?SectionID=2174&pagenum=89>, accessed September 28, 2009.

Summary

Israel maintains that during Operation Cast Lead, discounting a few exceptional cases that are now being examined by the military prosecution, all of the combat was carried out in accordance with international humanitarian law.

However the evidence detailed above presents a completely different picture. Hundreds of civilians were not killed 'by mistake' or by a handful of 'rotten apples' which the military prosecution will punish. Homes, orchards, public buildings and factories were not destroyed 'by accident'.

Though it appears that Israel did not have a policy of intentionally killing civilians, it is possible to summarise and assert that the many casualties and widespread destruction were the result of a coherent strategy that incorporated two major elements into the planning of Operation Cast Lead:

1. The implementation of the "Dahiye Doctrine", the principal tenet of which was to cause intentional suffering to civilians so that they would bring pressure to bear on those who were fighting against the IDF.
2. The "No Risk" policy, which placed absolute priority on preventing harm to IDF soldiers, even at the cost of greater danger to Palestinian civilians.

This strategy and the elements from which it is composed represent a significant change in the IDF combat doctrine.

As can be seen from Prof. Levy's observations regarding the soldiers / civilians casualty ratio presented above, there has been a continual increase in the level of force that the IDF has been willing to use in the very densely populated area of the Gaza Strip, with increasing disregard to the suffering of the civilian population. However, during Operation Cast Lead the IDF made a quantum leap from being apathetic to the suffering it caused to making that suffering into an essential element of its combat doctrine.

As Israeli citizens, the IDF acts for us and in our name. Some of the decisions taken by the Israeli government and the IDF's General Staff, including the present combat doctrine and the modus operandi of IDF units, cast a moral stain upon us. It should also be taken into account that IDF's current combat doctrine will continue to isolate Israel on the international stage, and may put Israeli soldiers, officers and political leaders in danger of being charged for war crimes before foreign courts. The ramifications of these actions may even endanger our continued existence in the Middle East.

We hope that this report will spark a public debate in Israel regarding which IDF actions are permissible and which are forbidden. The change of values which are inherent to the IDF's combat doctrine is not a subject to be restricted to the closed forums of the IDF General Staff or to the Israeli security cabinet alone. This is matter for which each and every Israeli citizen is morally responsible, and it therefore necessitates in-depth public debate.