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Written statement* submitted by United Nations Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* Issued as received, in the language(s) of submission only.



Report on Hamas responsibility for Gaza deaths in May 2021 Conflict

Contrary to what many within the UN have suggested, the fact that 256 Gazans were killed in the latest military confrontation between Hamas and Israel in May 2021 does not make Israel responsible for those deaths or in any way exonerate Hamas which, as a *modus operandi*, uses its civilians as human shields. Israel has been falsely accused of indiscriminate attacks on civilians and possible war crimes by UN officials, members of this Council, civil society activists and the media.¹ However, an examination of the numbers proves the exact opposite of these accusations—that Israel’s military strikes were targeted and precise, and that it took extensive precautions, beyond the norm in conflicts of this nature and the requirements of international law, to avoid civilian casualties.

As a preliminary matter, it must be emphasized that while Hamas put the Gaza death toll at 256, this number cannot be independently verified and is not reliable. It likely mischaracterizes a high number of combatant deaths as civilians. In an article on the 2014 Hamas-Israel war, entitled “Caution needed with Gaza casualty figures,” BBC head of statistics Anthony Reuben explained the difficulties of classifying civilians versus combatants based on the Hamas health ministry figures. Noting the disproportionately high number of combatant age men (ages 20 to 29) killed, Reuben cautioned that “some of the conclusions being drawn” from the Hamas numbers “may be premature.” The same applies here.

Indeed, it has already been proven that the 256 figure includes at least 21 people who were killed by Hamas’s own rockets that fell short.² According to one estimate, the number of Palestinians killed by Hamas rockets may be as high as 91.³ Approximately 15% of the rockets during the recent conflict—680 out of some 4,300—fell short in Gaza.

Furthermore, as Hamas leader Yahya Sinwar himself admitted to Al Jazeera, at least 90 of those killed during the conflict were combatants,⁴ i.e., lawful military targets under international law. According to an analysis of the casualties conducted by the Meir Amit Intelligence and Terrorism Information Center (“MAITIC”), at least 114 of the Gaza dead were terrorists, meaning close to half.⁵ The UN itself has placed the number of civilian casualties at 129, being approximately half.⁶

Notably, some of the Gaza dead who were classified as minors were confirmed to be militants affiliated with one of the terror groups.⁷ Gaza terror groups are known to recruit children as combatants.⁸ Indeed, this year’s Hamas summer camps, where children were taught to handle weapons and kidnap soldiers, were widely publicized in the news and on social media.⁹

Unfortunately, misleading information published by certain groups—falsely classifying terrorists as civilians, or ignoring evidence implicating Hamas in the deaths of Gaza

¹ See, e.g., UN Bodies Attack Israel, UN WATCH (May 20, 2021), <https://unwatch.org/un-bodies-attack-israel/>.

² An analysis of the names of Gazans killed during Operation Guardian of the Walls indicates that about half of them were terrorist operatives, MAITIC (June 29, 2021).

³ Dr. Alex Safian, How many Gaza Palestinians Were Killed by Hamas Rockets in May? An Estimate, BESA (June 27, 2021).

⁴ An analysis of the names of Gazans killed during Operation Guardian of the Walls, *supra* note 3.

⁵ *Id.*

⁶ Regular Press Briefing by the United Nations Information Service, UN GENEVA (May 25, 2021), <https://www.ungeneva.org/en/news-media/bi-weekly-briefing/2021/05/regular-press-briefing-united-nations-information-service-5>.

⁷ *Id.* See also Another Gazan boy, who according to the New York Times list dies in Operation Guardian of the Walls, was found to be an operative in Hamas’ military-terrorist wing, MAITIC (June 8, 2021).

⁸ See, e.g., Summer camps in the Gaza Strip, MAITIC (July 15, 2019); COGAT: Hamas summer camp trains kids to ‘commit acts of terror,’ JERUSALEM POST (June 11, 2020).

⁹ See, e.g., Hamas Summer Camp Trains Youths to Fire Guns, Kidnap Soldiers, I24 NEWS (July 5, 2021); Amelia Navins, Hamas’ Summer Indoctrination Camps for 50,000 Children, JCPA (July 12, 2021); @Jtruzmah, TWITTER (June 14, 2021, 12:01 PM) .

civilians—has contributed to the libel that Israel indiscriminately targeted civilians. NGO Monitor has published a report detailing 50 such incidents of misinformation from the May 2021 conflict.¹⁰

To put this in context, the ratio of civilians to combatants killed in the May conflict—somewhere between 2:1 and 1:1 or lower—is far better than in other similar conflicts. According to Col. Richard Kemp, the former commander of British forces in Afghanistan, “The UN Secretary-General has estimated that on average the ratio in this form of conflict since the Second World War has been 3 civilians for every combatant killed. In Afghanistan the estimate is 3:1. During the Iraq conflict that began in 2003 the UN estimate was 4:1. Other studies estimate far higher civilian casualty rates in these and other conflicts.”¹¹ The figures from the recent Hamas-Israel conflict indicated how the IDF was “even more successful in minimizing civilian casualties during this campaign than in previous engagements in Gaza.”¹² On this issue, humanitarian law expert Professor Geoffrey Corn has stated that “While statistics vary among studies, there is no question that beginning with World War II, the ratio of civilian to military casualties in war has steadily increased. Many experts believe that today 90 percent of casualties are civilian.”¹³

Finally, even taking the Hamas death toll number purely at face value, without making any discounts for combatant deaths or Gazans killed by Hamas rockets, it is still extremely low. The total Gaza population is approximately 2.1 million,¹⁴ which makes the death toll according to Hamas just .01% of the total population. While all harm to civilians in war is tragic and should be minimized, this can hardly be called indiscriminate.

The truth is the very opposite of the accusations. In contrast to Hamas’s cynical exploitation of civilians by using them as human shields, the Israel Defense Forces (“IDF”) took great care—even beyond what is required by law—to avoid civilian casualties. The IDF launched hundreds of surgical strikes against 1,500 Hamas military targets, including rocket stores, rocket launchers, underground terror tunnels, militants, and operational facilities. Such strikes are directly supervised by the IDF’s International Law Department, from choice of target to closely advising planners and commanders as the strike is executed.¹⁵ Many of the strikes resulted in no casualties due to Israel’s abundant precautions, which included:¹⁶

1. Choosing an aerial campaign rather than a ground invasion, and using extremely precise missiles capable of taking out a military target in the middle of a civilian area with minimal collateral damage;

¹⁰ See No Evil: NGOs Turn Terrorists into Civilians in 2021 Gaza Conflict, NGO MONITOR (July 2021).

¹¹ Submission to the United Nations Independent Commission of Inquiry on the 2014 Gaza Conflict (Feb. 20, 2015), <https://richard-kemp.com/submission-to-the-united-nations-independent-commission-of-inquiry-on-the-2014-gaza-conflict/>.

¹² Richard Kemp, Trumpets and Tank Engines: A Turning Point in Gaza? GATESTONE (May 16, 2021), <https://richard-kemp.com/trumpets-and-tank-engines-a-turning-point-in-gaza/>.

¹³ Geoffrey S. Corn, Humanitarian Regulation of Hostilities: The Decisive Element of Context, VANDERBILT JOURNAL OF TRANSNATIONAL LAW (May 31, 2018), <https://ssrn.com/abstract=3188060>.

¹⁴ Estimated Population in Palestine Mid-Year by Governorate, 1997-2021, PCBS (last visited June 10, 2021), http://www.pcbs.gov.ps/Portals/_Rainbow/Documents/%D8%A7%D9%84%D9%85%D8%AD%D8%A7%D9%81%D8%B8%D8%A7%D8%AA%20%D8%A7%D9%86%D8%AC%D9%84%D9%8A%D8%B2%D9%8A%2097-2017.html.

¹⁵ Michael N. Schmitt and John J. Merriam, The Tyranny of Context: Israeli Targeting Practices in Legal Perspective, U. PA. J. INT’L L. (2015), p. 75-81, <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1905&context=jil>.

¹⁶ Anna Aronheim, Operation Guardian of the Walls: Targeting Hamas terror, behind the scenes, JERUSALEM POST (June 3, 2021), <https://www.jpost.com/arab-israeli-conflict/gaza-news/op-guardian-of-the-walls-behind-the-scenes-of-targeting-hamas-terror-669989>; Richard Kemp, Trumpets and Tank Engines: A Turning Point in Gaza? Supra note 14.

2. Providing advanced warnings to civilians in or near the target (phone calls, text messages, roof-knocking¹⁷) to provide them sufficient time to evacuate, a tactic documented by, among others, then-UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) Gaza head Mathias Schmale¹⁸ and the Al-Jalaa media building owner;¹⁹ and;
3. Aborting strikes when civilians were detected in the vicinity, as reflected in a voice recording of IDF command control calling off a strike at the last minute when children were detected nearby.²⁰

Accordingly, United Nations Watch urges this Council's Commission of Inquiry to exercise caution when evaluating accusations against Israel, and to thoroughly and independently verify the facts before reaching any conclusions.

¹⁷ Yaakov Katz, How the IDF invented 'Roof Knocking', the tactic that saves lives, JERUSALEM POST (March 25, 2021), <https://www.jpost.com/arab-israeli-conflict/the-story-of-idfs-innovative-tactic-to-avoid-civilian-casualties-in-gaza-663170>.

¹⁸ @matzschmale, TWITTER (May 11, 2021, 8:02 PM), <https://twitter.com/matzschmale/status/1392163323295240192>.

¹⁹ Frantic phone call with Israeli army moments before media tower bombed, YOUTUBE (May 15, 2021), <https://www.youtube.com/watch?v=QgtextTT0-I>.

²⁰ Tobias Siegal, IDF pilot suspects children in vicinity, calls off airstrike – watch, JERUSALEM POST (May 17, 2021).