

Operation Cast Lead

Humanitarian Aspects

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Chapter One:

Measures Taken to Distance Civilians from Danger

This document contains initial information and data regarding several humanitarian aspects of Operation Cast Lead: The number of fatalities, measures taken by the IDF to distance the civilian population from danger, coordination of humanitarian relief during the operation and Hamas' undermining of the humanitarian effort. In addition, this document outlines measures taken by the IDF to instill respect for International Law and standards of conduct among its troops, mechanisms for enforcement of rules of conduct, examples of Supreme Court supervision over military activity during the operation. Lastly, it contains a brief discussion of several legal issues concerning the operation.

Duration of the Operation:

Operation Cast Lead commenced on 27 December 2008 and ended on 17 January 2009 (i.e. 22 days in all) with Israel's implementation of a unilateral ceasefire which came into effect at 2am. Subsequently, IDF troops began their withdrawal from the Gaza Strip which was completed on 21 January 2009.

Data on Fatalities in Gaza:

According to data compiled by the IDF in a project led by the Research Division of Israel Military Intelligence, there were altogether 1,166 fatalities in Gaza as a result of Operation Cast Lead. 709 of these were terrorist operatives, the majority from Hamas and the remainder from other terrorist organizations. A total of 295 of those killed were apparently not involved in hostilities. Of this group, 89 were under the age of 16 and another 49 were women. With respect to an additional group of men aged between 16 and 50, it could not be established clearly whether or not they were involved in hostilities.

Measures Taken to Distance Civilians from Danger:

As part of the effort to minimise harm caused to the civilian population as required by the "Spirit of the IDF" and International Law, the IDF acted routinely to distance civilians from military operations by distributing warnings in a variety of ways.

These warnings were intended to notify civilians of impending IDF operations and to instruct them on how to avoid harm. Some of the warnings were of a general nature, cautioning against being present in places where terrorist activity was taking place, while others were directed at specific locations, including individual buildings where IDF operations were imminent.

Throughout the operation, the IDF employed several methods to ensure that warnings were communicated effectively, as described below:

A. Dropping of Leaflets:

During the course of the operation a total of over 2,500,000 leaflets of various kinds were dropped in the Gaza Strip.

Below are Examples (translated from Arabic):

Wording of a general leaflet directed at residents of Rafah:

To the Residents of Rafah

The IDF is conducting operations against groups who are engaged in acts of terrorism against the State of Israel. The IDF will strike and destroy any location or building containing weapons, ammunitions or a tunnel. As of the distribution of this notice, the life of anyone present in a building containing weapons, ammunition or a tunnel is in danger and he should leave the location immediately for his own and his family's safety!

You have been warned!

A leaflet directing residents to leave a particular location and move to a safe zone:

To the Residents of the Saja'iya Neighbourhood

The IDF continues to intensify its operations against Hamas terrorism and will attack any location in the Gaza Strip where terrorist operatives, tunnels or weapons are to be found.

All residents of the Saja'iya Neighbourhood must leave their homes and move towards the Old City to the other side of Salah A'Din Road, with effect

as of the distribution of this leaflet and by no later than 6 hours after the distribution of this leaflet.

These instructions are in force until further notice.

Adherence to IDF instructions has prevented unnecessary casualties in the past.

Please continue to follow IDF instructions for your own safety.

IDF Command

A general leaflet encouraging residents to follow IDF instructions for their own safety:

To the Residents of the Gaza Strip

Several days ago the IDF distributed leaflets in Rafah, giving warning to residents and instructing them to leave their homes for their own safety. The Rafah residents' adherence to IDF instructions prevented casualties among those not involved in hostilities.

In the near future the IDF will continue to act against tunnels, weapons stockpiles and terrorist operatives with increasing intensity throughout the Gaza Strip.

For your own and your family's safety you are required to keep away from terrorist elements and from locations where weapons are stored or where terrorist activity is being conducted.

Please continue to follow the instructions being conveyed through the various channels.

IDF Command

A. Telephone Warning:

In addition to leaflets, during the operation, the IDF made telephone calls to families throughout the Gaza Strip instructing residents in certain locations to leave their homes due to imminent military activity.

Over 165,000 such calls were made to Gaza residents in the course of the operation.

B. Media Broadcasts:

The IDF also conveyed instructions to residents by overriding local radio broadcasts with IDF announcements. This involved specific notices as well as a daily news broadcast (the latter from 31/12/08 onwards).

Chapter Two:

Coordination of Humanitarian Aid during the Operation

A total of 1,503 trucks carrying 37,159 tons of supplies entered the Gaza Strip from Israel through the Karni and Kerem Shalom Crossings from the commencement of the operation and for its duration (706 of the trucks carried donations), as detailed below:

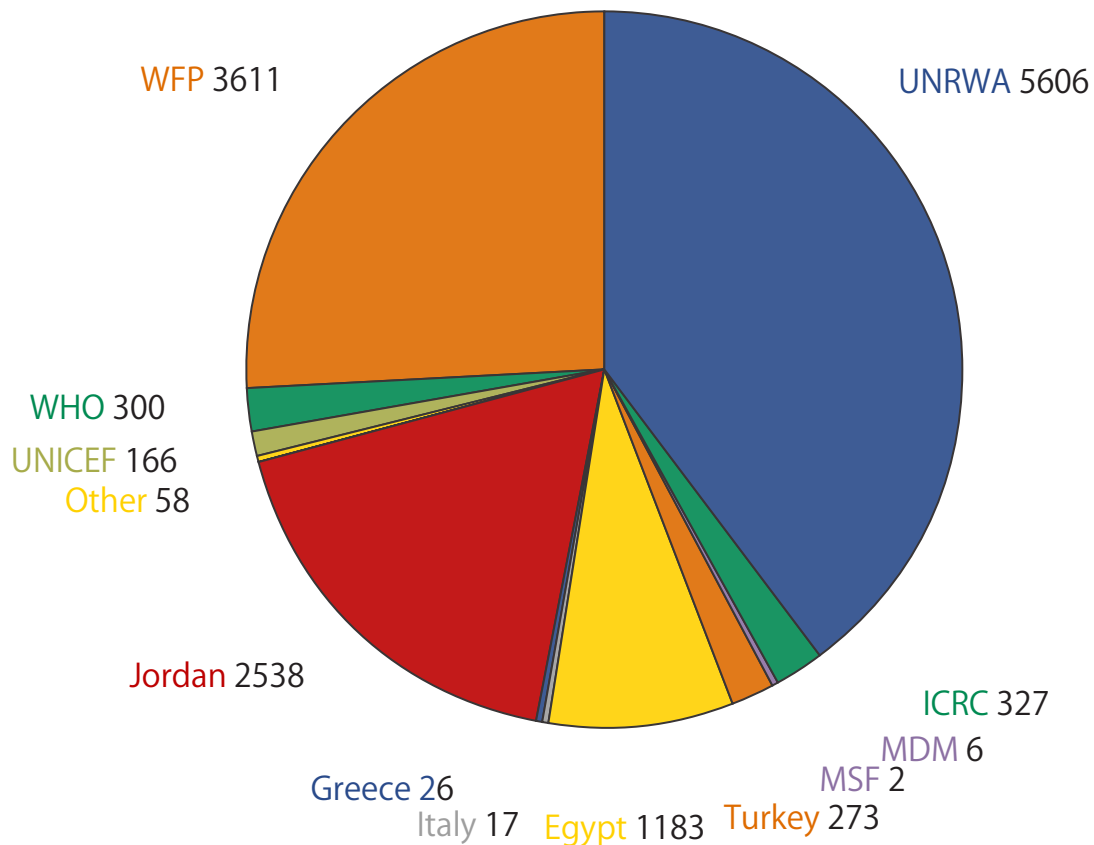
Humanitarian Activity through the Crossing between Israel and Gaza Strip during the Operation:

- 1,535,750 liters industrial diesel for Gaza power station.
- 234 tons gas for domestic purposes
- 188,000 liters automotive diesel for UNRWA
- 20 ambulances – donations from Turkey and Jordan and reinforcements from Red Crescent in West Bank (10 additional ambulances were brought in by the Red Cross after the operation)
- 449 foreign nationals left Gaza via the Erez Crossing
- 37 international aid workers and medical personnel entered Gaza via the Erez Crossing
- A field clinic was set up at the Erez Crossing.
- Via the Nahal Oz fuel terminal: 1,711, 000 liters diesel for heating, 96, 000 liters automotive diesel, 234 tons gas and 282,000 liters diesel for UNRWA.
- 3,896 tons grain (wheat/barley/animal feed) on 98 trucks entered Gaza through the Karni Crossing.
- 460 Palestinians holding foreign citizenship left Gaza via the Erez Crossing.
- 68 chronically ill patients left Gaza via Erez Crossing for treatment in Israel/Jordan

Additional Humanitarian Coordination Activities:

- 382 wounded were evacuated from areas of hostilities. 1,150 Palestinian civilians were evacuated from areas of hostilities.
- 17 fire engines were sent to deal with fires.
- 38 infrastructure repairs were carried out by professional teams in areas of hostilities
- Coordination of passage from North to South within the Gaza Strip of 500 trucks and 131 ambulances.
- Implementation of daily unilateral ceasefire for humanitarian purposes.
- IDF initiated food aid to the Northern Gaza Strip.

Consignment of Medical Supplies:



Coordination with the Palestinian Side:

Constant communication was maintained with the Civil Affairs Committee of the Palestinian Authority as well as with members of the Palestinian private sector for the purpose of coordinating supplies of goods and humanitarian assistance.

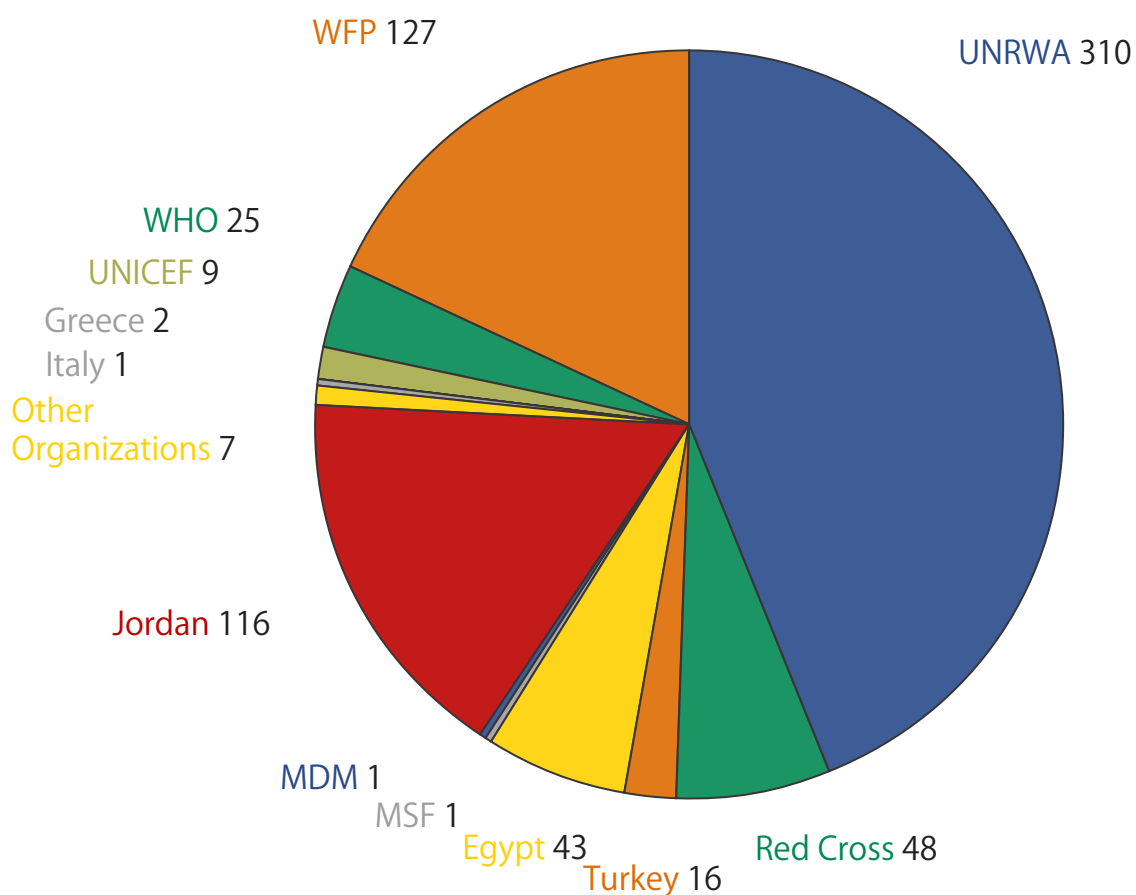
Constant communication was maintained with the Palestinian Electricity, Water & Sewage and Communications Authorities in Ramallah and their crews in Gaza, in order to ensure the functioning of essential utilities during the operation.

Principle Components of the Humanitarian Effort:

- Continuous supplies through crossing points.
- Unilateral suspension of military operations for 3 hours a day to allow resupply of the population and humanitarian relief activities.
- Coordination of movement within the Gaza Strip including in areas of hostilities.
- Ensuring the functioning of essential infrastructure.

International Aid Coordination:

Coordinating the entry of 706 trucks (48% of total goods entering Gaza) carrying donations from international organizations and various countries (chiefly UNRWA, WFP and the Kingdom of Jordan)



Chapter Three:

Hamas Undermining of Humanitarian Efforts

Hamas Operatives Stole Consignment of Humanitarian Aid Entering the Gaza Strip:

Examples:

- The Jordanian News Agency was informed that on 20 January 2009, armed men confiscated aid sent by Jordan arriving to Gaza through the Kerem Shalom Crossing. When the aid convoy sent by the Jordanian Hashemite Charity Organization passed through the Allenby Bridge Crossing, its cargo was transferred to non-Jordanian trucks with non-Jordanian drivers. UNRWA was supposed to take delivery of the supplies and unload them into its storage facilities in Gaza for distribution to civilians in Gaza. After entering Gaza the convoy was fired upon by armed men who forced the trucks into their own storehouses. As a result UNRWA requested the transport company to freeze further planned deliveries until resolution of the issue.
- Humanitarian supplies transferred to Gaza on 18 January 2009 under the auspices of the UN were siezed by Hamas. These supplies were sent by the PA and were designated for distribution by UNRWA.
- Internet user Abu Mohamed of Khan Younes wrote on 9 January 2009 at 21.40 that: Hamas is selling the humanitarian aid to the big merchants. They are exploiting people's suffering and do not care about the martyrs, the wounded and those who have fled their homes. They commandeered the UNRWA lorries and put the supplies in their own storeshouses. Ask the chief of emergency services in Rafah, the engineer Sh'hiber. Hamas people are siezing all the goods entering Gaza and selling them to the big merchants. Ask the merchant Hamed from Khan Younes who is selling the aid from Jordan to the small merchants. Also the aid from Egypt is being sold and distributed to their people only. Everyone in Gaza knows this, but the people are silent. Only Hamas are profiting from the people's disasters. We ask that all the aid go through the above organizations.

Hamas Operatives Firing Rockets and Mortars into Israel during the Humanitarian Recesses:

Examples:

- During humanitarian recess on 10 January 2009 between 13.00 and 16.00 – 5 launches.
- During humanitarian recess on 11 January 2009 between 11.00 and 14.00 – 12 launches.
- During humanitarian recess on 12 January 2009 between 10.00 and 13.00 – 10 launches.

Additional Hamas' Operatives Activities:

- Firing from nearby international installations (eg. UNRWA installations, Al quds Hospital) and from within population concentrations, schools and their vicinities.
- Use of ambulances for transporting terrorist operatives.
- Explosive tunnel for attack on Nahal Oz fuel terminal.
- Terror activity in mosques and their grounds.
- Prevention of medical treatment in Israel

For additional information on the use by Hamas of the civilian population as “human shields” see the Intelligence and Terrorism Information Center’s website at: <http://www.terrorism-info.org.il/HebSite/home/default.asp>

Chapter Four:

Measures taken to Instill Respect for International Law in the IDF:

Legal Advice on the Law of Warfare :

Leading up to and during Operation Cast Lead the International Law Department of the IDF Military Advocate General's Corps provided legal advice on the Laws of Warfare to commanders at the General Staff, Regional Command and Divisional levels. This advice included examining the legality of planned targets, participation in the operational planning process, participation in directing humanitarian efforts, participation in situation assessments and in exercises and simulations. Legal advisors also assisted in drafting operational orders and procedures and in preparing legal annexes to such orders.

It is worth noting that IDF legal advisors answer only to their commanders in the IDF Legal Corps and are not subordinate to the commanders they advise.

Instruction in the Law of Warfare :

The IDF Military Advocate General's Corps is also active in providing instruction in the Laws of Warfare to fighting forces through the IDF School of Military Law. The activities of the School in this regard are numerous and varied. Some examples:

1. Development of interactive computer software for instruction on rules of conduct in armed conflicts. The program is produced in several versions: the Junior Command version, Senior Command version and the Reservists (Junior and Senior Commands) version (the latter being available for home study on the internet). Several thousand copies of the Junior Command version have been and continue to be distributed within the IDF. The software is to be found in Command courses, at the IDF Tactical Command College and at most of the training bases in the IDF. This version is also available in English and has been demonstrated at the IDF Ground Forces Command International Conferences on Low Intensity Conflicts (LIC) as well as to various other conferences, organizations, the press and representatives of foreign countries. Several militaries around the world have expressed interest in receiving the software.

2. New interactive software for teaching the Laws of Warfare has been recently completed, including an English version. This software contains an introduction to International Law and deals with subjects such as the legality of weapons, targeting, methods of warfare, International Criminal Law and command responsibility.
3. Leaflets for commanders, instruction booklets, placards and power point presentations dealing with various subjects (eg. Offences in armed conflict, Looting, Rules of Conduct) have also been widely distributed in the IDF.
4. Lectures and workshops for Commanders are given regularly by officers of the IDF Law School as an integral part of the IDF's training programs for senior and junior commanders in International Law, Laws of War, Rules of Conduct, etc. These include lectures and workshops at the IDF Officer Training School, the Staff and Command College, Senior Command Courses and the National Security College.
5. The Laws of Armed Conflict are integrated into IDF Combat Doctrine. For example, the IDF tactical field manual on Low Intensity Conflicts with irregular forces contains a chapter on legal and ethical aspects of military operations.
6. Officers of the Military Law School participate as planners and observers in military exercises and simulations, providing legal input before, during and after such activities.
7. Academic courses in International Law, Laws of War, Law of Belligerent Occupation, Command Responsibility and Norms of Conduct form part of the curriculum of the IDF Tactical Command College.
8. A team from the IDF Tactical Command College participates in the annual International Law Competition for Military Academies held in San Remo, Italy. IDF teams have fared particularly well in this competition, including winning First Place in one of the competitions.
9. Booklet on the Law of War. The latest edition of this booklet was published in 2006 and distributed to all unit commanders, senior officers, military colleges and the IDF Officers Training School.

10. The School of Military Law produced a Comparative Manual on the Law of Armed Conflicts. Unique in kind, this is a comparative guide to the military manuals of the USA, Canada, Australia, Germany and the Model Manual of the International Committee of the Red Cross as well as the relevant international conventions relating to land, sea and air warfare. The guide has been published in English and Hebrew, distributed to various bodies and has been quoted in court decisions and in academic articles. The military Law School is currently working on updating the guide.

Measures taken to inculcate Moral Norms in Combat:

A. The Spirit of the IDF:

- The Code of Ethics for IDF soldiers is set out in the document "The Spirit of the IDF".
- All IDF soldiers are acquainted with this document from the earliest stages of their training.
- Under IDF Standing Orders, "The Spirit of the IDF" placard is to be displayed prominently in all IDF units.
- One of the fundamental tenets of this code is "Human Dignity" which requires that "The IDF and its soldiers are obligated to protect human dignity. Every human being is of value regardless of his or her origin, religion, nationality, gender, status or position."
- The Code also demands of IDF soldiers to uphold the moral values of "Human Life" and "Purity of Arms":
- "Human Life" – "The IDF servicemen and women will act in a judicious and safe manner in all they do, out of recognition of the supreme value of human life. During combat, they will endanger themselves and their comrades to the extent required to carry out their mission."

- “Purity of Arms” – “The IDF servicemen and women will use their weapons and force only for the purpose of their mission, only to the necessary extent and will maintain their humanity even during combat. IDF soldiers will not use their weapons and force to harm human beings who are non-combatants or prisoners of war, and will do all in their power to avoid causing harm to their lives, bodies, dignity and property.”

B. Project “Human Dignity” of the IDF Education Corps:

- The IDF runs educational programs for soldiers on human rights issues at all the stages of military service, starting with Basic Training and Combat Speciality Training Courses through to courses for senior commanders.
- In this framework, the IDF Education Corps is engaged in a multi-year project of workshops to promote the requirement of “Human Dignity” in combat units in tandem with the Military Advocate General’s Corps. The program focuses on the importance of “Human Dignity” in two sets of relationships:
 1. Between commanders and their subordinates.
 2. Between soldiers and the Palestinian population.

In the program, commanders are trained how to educate their subordinates on these issues, the object being to familiarise soldiers with the “Human Dignity” concept, to identify its meaning and human dignity related conduct in the context of their duties, to increase awareness of respectful and non-respectful behaviour in their interactions with subordinates and with the Palestinian population and to develop personal commitment to promoting respectful behavior in their units. Several thousands of commanders have participated in such workshops every year.
- In addition, the IDF has established a team, led by Battalion Commanders, for the purpose of identifying areas for improvement in human dignity related matters and introducing changes where necessary. Also, the Education Corps conducts analyses of incidents involving ethical issues and publishes these throughout the IDF.
- Special emphasis is placed on holding preparatory “Human Dignity” workshops for units about to be sent into sensitive areas. These workshops include analyses of past ethics-related cases in order to concretize the application of human dignity norms in the especially difficult context of combat with terrorist organizations who frequently operate deliberately from among the civilian population.

Chapter Five:

Enforcement of Rules of Conduct in the IDF:

- Any person may file a complaint with the Military Police in regard to misconduct by IDF personnel. This can also be done at any civilian police station in the country.
- Generally, suspicions of criminal offences by soldiers are investigated by the Military Police Investigations Unit (CID). Most complaints regarding conduct of soldiers towards Palestinian residents are handled by the CID's Sharon & Shomron Base which was established specifically with the object of developing professional expertise in this type of case. This is in addition to the work done by the CID base in Beer Sheba (for the Hebron sector), CID Jerusalem (Judea sector) and CID Orim (Gaza sector).
- The ways in which information on misconduct of soldiers reaches the CID are varied and include complaints by the victims themselves or family members, complaints by commanders, by soldiers who witnessed an incident, complaints by human rights organizations, journalists, embassies, international bodies and of course, by the Israel Police and other law-enforcement agencies.
- All the bases mentioned above have Arabic-speaking interpreters who participate in and accompany interviews of Palestinian residents. In addition, CID investigators handling complaints by Palestinians undergo special training to equip them for dealing with this type of complaint.
- In many instances where reports brought to the attention of the Military Police concern harm to the Palestinian population, consultations are held with a Military Prosecutor regarding the treatment of the case. For example, in cases of allegations against the IDF where the circumstances do not necessarily point to a criminal offence, such as incidental harm to civilians as a result of an attack on a legitimate target, the Military Advocate General is likely to demand a field investigation before deciding whether to order a criminal investigation.

- In many cases, the IDF conducts field investigations on its own initiative , regardless of whether a complaint has been submitted , following incidents which appear to involve failures or problematic conduct, including with regard to combat operations. Under Israel's Military Justice Law, the findings of such field investigations are privileged (ie. cannot be used in legal proceedings), however the Military Advocate General is entitled (in some circumstances even obliged) to peruse them, and can, if the findings justify , order a military police investigation into the incident.
- The authority to put soldiers on trial for offences connected to their military service is in the hands of the Military Advocate General's Corps. In cases where sufficient evidence has been collected according to the requirements of Israeli Law, indictments are filed in the Military Courts. In many instances, the Military Prosecution asks the Courts for stiff sentences in cases of misconduct towards Palestinians and in appropriate cases appeals lenient sentences to the Military Court of Appeals.
- The decisions of the Military Advocate General regarding the opening or non-opening of criminal investigations as well as his decisions regarding the filing or non-filing of indictments are subject to judicial review by the Israel Supreme Court.
- For data regarding Military Police investigations into misconduct of soldiers towards Palestinians, see Appendix I.

Examples of Military Court Proceedings against Soldiers for Misconduct:

- A reservist of the rank of Sergeant Major was convicted after trial of Assault for employing physical violence against two Palestinian goat-herds. The soldier argued in his defense that his motive was to keep the goat-herds from approaching nearby IDF bases for security reasons. In this case the Military Court of Appeals upheld the appeal of the Military Prosecutor and held that the conduct of the defendant had been unprofessional, illegal and immoral. The Court added that even if the defendant's motive – from his point of view - had been pure, this should not impact on the sentence and that "good" yet distorted intentions should be examined and judged objectively. The result, therefore, was that the Court of Appeals increased the defendants sentence and in place of the suspended sentence imposed by the lower court, imposed a sentence of two months imprisonment [A57/05 Military Prosecutor v Sgt. Maj. L.]

- A soldier driving a vehicle transporting Palestinian detainees to a detention facility, stopped the vehicle, removed one of the occupants who was handcuffed and blindfolded, struck him once on the neck with his hand, struck him once in the chest with his knee and kicked him in the leg. The soldier was indicted for mistreatment of a detainee. The defendant was convicted after pleading guilty to the charge and was sentenced, inter alia, to four months imprisonment and demotion to the rank of Private. [C/274/06 Military Prosecutor v Cpl. V.).
- Further to a complaint by a Palestinian resident, a Military Police investigation was opened which established that on 28 August 2006, the defendants – soldiers in an infantry battalion, on two separate occasions, assaulted two Palestinian passers-by, kicking them and striking them by hand and with a blunt object, causing head injuries which required medical attention and stitching. The two soldiers were indicted, inter alia, for assault in aggravating circumstances. They pleaded guilty and were convicted in the framework of a plea bargain. The soldiers were sentenced, inter alia, to prison terms of five-and-a-half months each and were demoted to the rank of Private. [C/450/06 Military Prosecutor v Sgt. V. And Sgt. M.]
- The gravity attached by the Military Courts to cases of misconduct towards Palestinian residents is illustrated in the following excerpt from the Court’s judgment in C/62/03 Military Prosecutor v Sgt Ilin, involving a case of looting and improper conduct:

“A soldier committing prohibited acts during armed conflict inflicts injury upon the human dignity of the conquered as well as upon the humanity of the conqueror. Looting and humiliation of the enemy are ugly phenomena which accompany or are prone to accompany warfare to the extent that to a detached observer they might appear to be part and parcel of warfare... The understanding that war changes the order of things and creates potential for criminal behaviour, including among normative soldiers, stands at the foundation of the Biblical injunction: “When you go out as an army against your enemies, you shall keep yourself from every evil thing” (Deut. 23). The extreme care required to keep oneself from “evil”, has a single purpose: to balance out the negative effects of warfare. In the words of Maimonides: “The most righteous of men by nature will don cruelty and rage when going out to battle the enemy. Therefore the Scriptures admonish: Keep yourself from all evil” (see above).

It is clear therefore that the thunder of war and the heat of the battle actually demand reinforcement and amplification of the voice of morality – the voice of IDF commanders and fighting men – a clear and distinct voice, rising above all the evil and the sound of gunfire, and which denounces the offence of looting, saying: “This is not our way”... Since its foundation the IDF has been exposed to ugly phenomena accompanying warfare. It fights them and can defeat them. This fight, which is concerned with imposing ethical and moral restrictions on the use of force, is first and foremost the duty, the craft and the battle of the commanders. They must wage it with the strength of their leadership, through education and command and if necessary, through disciplinary and legal measures. However, both legally and morally, the responsibility of the commander does not diminish the responsibility of the soldier, the perpetrator of the crime. Those who loot and plunder are criminals who have fallen, fallen badly, and they must bear the harsh punishment which is due.”

- A further example can be found in the judgment of the Military Court of Appeals in A/153/03 Lt. Col Geva v Chief Military Prosecutor which dealt with misconduct of a senior officer of the rank of Lieutenant Colonel (Reserves) who on one occasion threatened the son of a wanted terrorist that he would harm him if he did not disclose the whereabouts of his father and the weapon hidden in his house and on another occasion grabbed the blouse of a Senegalese citizen who was employed by a Palestinian in another house and forced her to walk in front of him effectively serving as a human shield while he searched for terrorists in her employer’s house. (The appeal was filed by the Military Prosecution who petitioned for a harsher sentence in regard to the component of the sentence dealing with demotion in rank):

“The failure of the defendant is a grave failure. He has caused great harm to the foundations of military leadership. The requirement of “personal example” by IDF commanders has been, from time immemorial, at the heart of military leadership which adopted the heritage of Gideon: “Look on me and do likewise.” (Judges 7). The example given by the respondent to his subordinates, to the IDF and to society in general has been negative and the harm caused - both at home and abroad – is probably irretrievable. Given the seriousness of the failure, as far as this impacts on the demotion component of the sentence, a clear and distinct statement is warranted. In cases where a lack of confidence in an officer’s ability to lead must be expressed, there is no alternative to a significant blow to the officer’s rank.”

Chapter Six:

Supreme Court Supervision of IDF activity during the Operation:

In Israel, the activities of all state authorities are subject to judicial supervision by the Israel Supreme Court sitting as a High Court of Justice (HCJ). In contrast to the situation in other countries, this judicial supervision is exercised over the military forces of the state in armed conflicts. In Israel, any interested party (eg. A Palestinian resident or a human rights organization) can file a petition to the HCJ concerning IDF military activity. Every year, the Supreme Court hears hundreds of petitions against the security forces regarding the rights of Palestinian residents. During Operation Cast Lead several such petitions were submitted to the HCJ. Following is a brief account of two prominent cases:

1. **HCJ 201/09** – Filed by the “Physicians for Human Rights” organization and seven other petitioners. The Court was asked to order the State to respond: a) Why the State does not desist from attacking medical teams and ambulances performing their duties in Gaza. b) Why the State prevents and/or delays the evacuation of the wounded in Gaza to hospitals for medical treatment.
2. **HCJ 248/09** – Filed by “Gisha - the Center for the Protection of the Right to Movement” and eight additional petitioners. The Court was asked to order the State to respond: a) Why the State does not supply sufficient electricity to hospitals, clinics and aid bodies in Gaza to enable their proper functioning. b) Why the State does not provide sufficient electricity to the Gaza water system in order to ensure access of the civilian population in Gaza to clean water. c) Why the State does not supply sufficient electricity for treatment of waste, to prevent the breakout of disease among the civilian population. d) Why the State does not supply any type of fuel and ensure that all necessary repairs are carried out to the electricity supply.

Steps taken by the IDF concerning Humanitarian Aid which were Presented to the Court:

- The State clarified to the Court that it recognizes its humanitarian obligations under International Law.
- The IDF made preparations, some before and some during the military operation, in order to deal with incidental harm to civilians in Gaza and to provide for the humanitarian needs of the population.

- On 5 January 2009, a special medical coordination center was set up under an officer with the rank of Major which dealt with assistance to civilians in danger and with evacuation of the wounded and dead from areas of hostilities. All professional decisions in this center were made by a doctor.
- Establishment of a humanitarian aid coordination center.
- Officers and soldiers of the Liaison and Coordination Administration were assigned to the various combat units to coordinate evacuation of the wounded and to coordinate the movements of aid agencies with the forces on the ground.
- The IDF does its utmost to overcome delays in evacuation of the wounded which are caused from time to time due to the military situation or damage to infrastructure.
- If and to the extent that medical teams trying to render genuine medical assistance were hit, this was not a result of deliberate action by the IDF.

Steps taken by the IDF regarding the Electricity Supply which were Presented to the Court:

- An Infrastructure Coordination center, manned 24/7 was set up by the IDF to coordinate repairs to infrastructure in areas of hostilities, to track the economic situation in Gaza and to coordinate deliveries of humanitarian aid to the Gaza Strip.
- As of 15 January 2009, nine out of ten electricity lines supplying electricity from Israel to Gaza were operational.
- Direct communication was maintained between the Palestinian Energy Authority and the Israel Electric Corporation for the purpose of identifying problems and fixing them as soon as possible.
- The two power lines bringing electricity from Egypt into Gaza were operational.
- During the operation, substantial amounts of industrial diesel for the Gaza power station were transferred into Gaza from Israel. The amount of diesel was reduced after an explosive tunnel was discovered near the Nahal Oz fuel terminal. However, in spite of the risk, the supply of industrial diesel was renewed through the Kerem Shalom crossing.

- In addition, 200,000 liters of automotive diesel, 234 tons of cooking gas, hygiene and water purification kits and water bottles were brought into Gaza from Israel.
- The IDF implemented unilateral ceasefires for several hours on a daily basis.

Steps taken by the IDF with Regard to International Law:

- The IDF set up an international organizations coordination center to coordinate movements of aid workers and their vehicles for humanitarian purposes.
- The IDF set up an additional coordination center in Tel Aviv under the command of a Brigadier General in order to reinforce the coordination of humanitarian aid efforts between the Israeli defense establishment and international organizations.

The Court Decisions:

Both petitions were rejected but the Court laid down several guiding principles:

1. Prohibition of deliberate targeting of medical teams – The Geneva Conventions prohibit attacks on medical teams, as long as this is their only function or for such time as they are performing medically related duties. The protection given to medical crews is lifted if they are used for other than humanitarian functions or exploited for military purposes. Abuse of the protection for medical teams, hospitals and ambulances necessitates that the IDF act to prevent such abuse, but this does not in itself allow wholesale violations of humanitarian norms. The IDF is obliged to examine each instance on its own merits and to do everything feasible to allow the swift and safe passage of ambulances and medical teams to those areas where wounded people require medical attention.
2. The obligation to supply the needs of the civilian population – One of the fundamental principles of International Law is the principle of distinction between combatants and military objects on the one hand and civilians and civilian objects on the other, the latter being entitled to protection. Among the protections provided for civilians is the obligation to allow free passage of medical supplies as well as essential foodstuffs and clothing for children, pregnant woman and mothers as swiftly as possible. The Court went on to hold that : “Given the establishment and operation of the apparatus which one assumes will prove their effectiveness, considering

the notice given whereby efforts will be made to improve the evacuation of the wounded and their treatment; given the establishment of a field clinic at the Erez Crossing... one hopes that the humanitarian apparatus will function properly in fulfilment of its obligations. In these circumstances we have not deemed it appropriate to grant the relief of a court order at this stage.”

Conclusions of the Court: “From the abovesaid it emerges that steps are being taken to repair damage to the Gaza electricity grid and that in spite of the hostilities and the security risks efforts are being made to enable the transfer into Gaza of industrial diesel for the power station in Gaza as well as other humanitarian products such as cooking gas, diesel, water, food and medicines. Under these circumstances, the petition in this regard is also rejected”.

Additional substantive rulings by the Court:

- President Beinisch: “We have been shown that the IDF and the senior commanders acting on its behalf are prepared to fulfil their humanitarian obligations and are aware of these”.
- President Beinisch: “Even when faced by a terrorist organization whose object is to attack civilians in the State of Israel without distinction, we will fulfil our commitment to observe the principles and values that stand at the base of our being as a Jewish and Democratic State, to whom human rights and humanity are dear.”
- In dealing with these petitions we have been convinced of the military establishment’s and the political echelon’s commitment to legal norms. This commitment in practice means a systematic, unceasing implementation effort, learning from mistakes and failures on the way and constant action for improvement.”
- Rubinstein J: As a Jewish and Democratic State, we are entrusted with safeguarding the norms contained in Jewish Law regarding treatment of human beings created in G-d’s image whoever they may be. The Jerusalem Talmud (Sanhedrin IV teaches that “whoever destroys a single human life, it is as if he has destroyed an entire world, while whoever saves a human life, it is as if he has saved an entire world” In this respect, we are taught that no commandment is above the saving of a human life, except for the prohibitions on idolatry, incest and bloodshed. This ethos accompanies soldiers of Israel in every generation and will continue to do so.”

Chapter Seven:

Legal Aspects of Operation Cast Lead:

Following is a brief discussion of some of the prominent legal issues arising with regard to IDF activity during Operation Cast Lead: Applying the principle of distinction, applying the principle of proportionality, precautions in attack, treatment of detainees and humanitarian obligations.

Applying the Principle Distinction:

Hamas' modus operandi entails the use of civilian structures – homes, schools, university, mosques, commercial centers – as launching sites, ammunition caches, command and control centers, etc. Such methods are in breach of international law and amount to war crimes.

Under international law, a distinction must be maintained between military and civilian objects, and only military objectives may be subject to attack. However, civilian objects do not enjoy protection from attack if they serve a military purpose or use. This was the case with many targets in Gaza in the course of the Operation.

Furthermore, Hamas exploited many sites with special status and protection – examples include the storage of ammunition in mosques; disguising of Hamas fighters as medical personnel; use of ambulances by Hamas fighters to travel in Gaza. The use of such protected sites for military purposes renders them legitimate military targets.

Applying the Principle of Proportionality:

Under international law, military targets may be attacked only if the commander assesses that the anticipated military advantage is not excessive in relation to the anticipated harm to civilians ("collateral damage"). This principle is instilled in IDF doctrine.

Terror organizations, particularly Hamas, intentionally and systematically endanger civilians by embedding themselves within the civilian population. The resulting affect is an increase in collateral damage when compared with classic warfare on an open battlefield.

Hamas' methods of warfare have forced the IDF to fight within densely populated areas. The alternative was to abstain from responding to Hamas' attacks altogether. This is not an option for any state whose civilians are systematically and continuously under attack.

As a result, Hamas creates a win-win situation for itself – if the IDF refrains from attacking, Hamas' capabilities are unharmed. If the IDF attacks, Hamas exploits the collateral damage for propaganda and attempts to portray IDF attacks as indiscriminate or disproportionate.

As a tactic, Hamas booby-traps buildings and structures; plants mines and explosives in them or underneath them using tunnels. This may affect the result of an attack by causing secondary explosions which cause increased damage, skewing the proportionality of an attack.

When on the battlefield, proportionality is assessed by the commander in the field, based on the information available to him. Accordingly, the proportionality of an attack is weighed in advance and cannot be judged with the benefit of hindsight.

Precautions on Attack:

International law requires that precautionary measures be taken, when possible, to minimize collateral damage.

In accordance with this obligation, prior to planned attacks, the IDF went to great lengths to give specific warnings to civilians in or near military targets (such as buildings used by terrorists for storing weapons or launching attacks), as well as general advance warnings to the civilian population in the area of military operations.

Warnings are communicated by dropping leaflets in Arabic, telephone calls and radio announcements. By encouraging civilians to leave affected areas, the warnings are effective in saving lives.

However, the laws of war are not impervious to the fact that providing warnings is not always possible.

For instance, the enemy may take advantage of such warnings to remove ammunition or to exploit civilians in order to "immunize" targets. For this reason, there is no obligation to provide advance warning of an attack if so doing would jeopardize the success of the operation.

Nevertheless, the IDF resorts to precautionary measures whenever possible, even at the expense of certain military advantages. Sadly, Hamas has used these advance warnings to encourage the civilian population to group around military targets as human shields in an attempt to prevent IDF attacks.

Treatment of Detainees:

In the course of the hostilities, the majority of suspects apprehended by the IDF were released within 48 hrs after initial questioning.

Any persons further detained by Israel are held under one of two regimes: Under regular domestic criminal procedure or under the Detention of Unlawful Combatants Law of 2002.

The status of “unlawful combatants” in Israel is regulated by law with detailed procedures and strict scrutiny.

The principal guarantees under the law: the right to meet with legal counsel; judicial review by both the District and Supreme Courts of decisions pertaining to the detention and the legitimacy of the detention itself; suitable detention conditions.

Humanitarian Obligations:

Despite attempts by Hamas to attack the crossings between Israel and Gaza, the crossings were nonetheless operated by Israel, at risk to those operating the crossings, to ensure the flow of supplies into Gaza.

Humanitarian pauses were implemented by the IDF in order to allow the civilian population to travel within Gaza and receive supplies. Regrettably, these unilateral recesses were exploited by Hamas. In fact, Hamas rocket launchings were routinely concentrated during these recesses.

In addition to already existing mechanisms for coordination through the COGAT (Coordination of Government Activities in the Territories), a special Humanitarian Operations Center was established for enhanced coordination with representatives of the international aid organizations working in Gaza. The Center, headed by a Brigadier General (Res.), was centrally located in order to ensure easy access to foreigners.

Representatives of organizations such as: OCHA, UNRWA, ICRC, WFP, and others would meet twice daily with MoD/IDF reps. to plan and coordinate entry of humanitarian aid into Gaza.

Many humanitarian convoys were seized by Hamas for its own purposes or sold to Palestinian civilians on the black market.

Appendix I:

Data Regarding Military Police Investigations

