

Adalah The Legal Center for Arab Minority Rights in Israel

عدالة المركز القانوني لحقوق الأقلية العربية في إسرائيل

עזאלה המרכז המשפטי לזכויות המיעוט הערבי בישראל



Statement to the UN Human Rights Council
Delivered by Adalah Attorney Fatmeh El-'Ajou on 16 October 2009
Edited Version

Mr. President, State members,

On behalf of Adalah - The Legal Center for Arab Minority Rights in Israel

Since the Fact Finding Mission's report on the Gaza offensive was published, we have heard from some states about their reluctance to endorse the recommendations. These states emphasize the argument that Israel is a democratic county where the rule of law applies in the legal system and that it is fully equipped and motivated to address the violations of international law.

However, based on our long experience working in the Israeli legal system we can clearly state that it has consistently failed to provide any legal remedies to the Palestinian people who are protected under International Humanitarian Law. Since the beginning of the occupation in 1967, the Israeli legal system has failed to prevent the continuation of illegal policies and practices in the occupied Palestinian territory which violate international law.

During and after Operation Cast Lead, human rights NGOs demanded the opening of criminal investigations into suspicions of war crimes committed by the Israeli army during the military operations in Gaza. The Israeli Attorney General and the Military Advocate General have rejected these demands. In addition, Israeli legal scholars have demanded the establishment of an independent mechanism to investigate all illegal actions during Cast Lead but their request was denied as well.

Since the second Intifada, Israel has stopped investigating the killings and injury of Palestinian civilians who were not involved in hostilities, except in extraordinary circumstances. A petition submitted six years ago to the Israeli Supreme Court by human rights organizations challenging this policy is still pending, with no sign of any willingness of the court to intervene in this policy.

All petitions submitted to the Supreme Court following the refusal of the military and state prosecuting authorities in Israel were rejected and no criminal investigations were opened.

The most famous example is the case involving the assassination of Salah Shehadeh in Gaza. In this case, Israel's air force dropped a one ton bomb on his home during the night, which killed Shehadeh and 14 civilians and injured more than 100 others. Seven years after the killings, no criminal investigation has yet been conducted in Israel. The Israeli Supreme Court gave its stamp of approval by rejecting a petition in this regard.

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Since 2006, Gaza has been a legal black hole in the Israeli legal system with no applicable legal protections, especially following the State of Israel's declaration that Gaza is an "enemy entity". The Israeli Supreme Court has approved all punitive measures imposed by the state and the military against the 1.5 million Palestinian people living in Gaza. The court approved the closure of the border crossings for humanitarian aid; vital commodities and goods; the denial of passage of Gazans to study, for marriage and even for medical treatment unavailable in Gaza, as well as massive cuts in the fuel and electricity supplies.

Mr. President, State Members,

The victims of Cast Lead in Gaza and Israel have the right to justice. In fulfilling its mandate to promote the protection of human rights without distinction, in a fair and equal manner and to uphold the rule of international law, the Human Rights Council must act to put an end to the culture of impunity in the region. The Human Right Council can do so by fully endorsing the Fact Finding Mission's report and recommendations.

Thank you.