Adalah The Legal Center for Arab Minority Rights in Israel عسدالسة الـمركـزالقانوني لحقوق الأقليـة العربية في اسرائيل עדאלה המרכז המשפטי לזכויות המיעוט הערבי בישראל



Adalah's Work on 2014 Gaza War Complaints Updated August 2016

Summary of complaints filed by Adalah to the Israeli Military Advocate General (MAG) and the Attorney General (AG):

- Total cases: **Requests for independent criminal investigations into 27 incidents.**
- Indictments: "0"
- Investigations opened: "3": 2 about UNRWA schools/facilities that are still under the investigation of the military police, 1 closed – killing of the 4 boys on Gaza beach (appeal pending)
- Cases with "no decision" yet: 7 cases
- Cases with "no investigations opened": 11 cases
- Cases with no responses yet: 6 cases

Date Complaint Filed (2014)	Content of Complaint	Status of Complaint	Link to Press Release
Filed (2014) July 10 (5 cases)	Demand that Israeli military stop targeting civilians and open investigations – 5 different events referenced: 1) Attack on Kaware family home, 8 killed (6 children), 25 injured; 2) Attack on Hamad family home, 6 killed (3 women), 5 injured (4 children); 3) Bombing near European Hospital, causing panic attacks to patients; 4) Attack on journalists' car, 1 killed, 8 injured; 5) Bombing of 3 mosques in Khan Younis.	No responses in 2 cases (bombing near European hospital, and bombing of 3 mosques in Khan Younis). Sept. 2014 - Military informed Adalah no investigation would be opened into 2 cases: - Kaware family home - Journalists' car Also informed that reasons for no investigations were based on secret evidence. In response, Adalah sent a list of questions to the military on these cases. Dec. 2014 - Military informed Adalah that no investigation would be opened into the case of the Hamad family home. In their response, the military said that the attack was targeting Khafet Hamad, a commander in Hamas and three other Hamas militants that were killed with him. Jun. 2015 - UN COI-Gaza (para. 221) raised concerns that the Kaware case and the al- Haj case violated the principle of distinction and principle of proportionality, and therefore may amount to war crimes. July 2015 – Adalah sent letters to the MAG in the Kaware, Hamad, AI-Haj (17 July) and the journalists' car cases asking for its response to the observations of the COI and Adalah's previous demands. Nov. 2015 – The military informed Adalah that the additional materials and affidavits	Press Release http://adal ah.org/eng /Articles/2 304/Adala h-to- Defense- Ministry:- Israeli- military- stop
		that Adalah supplied to the military in the Kaware family case had been sent to	

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July 17 Demand for investigation into attack of home of al-Haj family in Khan Youns refugee camp (with Al Mezan) Jun. 2015 - UN COI-Gaza (para. 464, 479) asserted that the targeting of medical personnel, vehicles and hospitals may amount to war crimes. Inttp://adal anount to war crimes. July 17 Demand for investigation into attack of home of al-Haj family in Khan Youns refugee camp (with Al Mezan) Jun. 2015 - UN COI-Gaza (para. 464, 479) asserted that the targeting of medical personnel, vehicles and hospitals may amount to war crimes. Inttp://adal an.org/eng //anouncies/ proportionality, and therefore may amount to a war crime. Inttp://adal an.org/eng //anouncies/ proportionality, and therefore on by the FAm mechanism and the the hay dama	r			,
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(with Al Mezan) witnesses. <u>ent/view/8</u>		targeting of four children on beach in Gaza (Bakr boys)	others is still under examination of the FFA mechanism. Sep. 2014 - Military informed Adalah that it had opened an investigation . Adalah, Al Mezan sent 3 more affidavits from	w.adalah.o rg/en/cont

			F01
		Jun. 2015 - Military announced in the media	<u>581</u>
		that it closed the investigation into the	http://ww
		case. The Military informed Adalah on this	<u>w.adalah.o</u>
		decision days later. Adalah & Al Mezan also	<u>rg/en/cont</u>
		responded in the media.	<u>ent/view/8</u> <u>581</u>
		Jun. 2015 - UN COI-Gaza (para. 632-633)	
		used this case as a case study in pointing to	
		the failure of the Israeli investigative	
		system, and raised a concern that the MAG	
		validated an incorrect application of IHL.	
		August 2015 – Adalah and Al Mezan	
		submitted an appeal to the AG against the	
		decision to close the case. The AG informed	
		Adalah that the appeal had been	
		transferred to the State Attorney's Office.	
		Nov. 2015 – Adalah sent a reminder	
		requesting the AG and SA's response to the	
		appeal.	
		16 December 2015 – Adalah sent a further	
		reminder requesting the AG and SA's	
		response to the appeal.	
		May 2016 – The State Attorney's office	
		informed Adalah that they addressed the	
		MAG to get the investigation file. Re: our	
		demand for investigation materials, the SA	
		stated that the military police is willing to	
		disclose certain materials and therefore	
		Adalah should address them. The SA is waiting for an updated appeal after getting	
		the materials.	
		To date, Adalah did not get a reply from the	
		military police or the MAG responding to	
		the request to disclose materials.	
July 21	Demand for investigation re	No response to date.	http://adal
(1)	targeting of Shuhaibar	Jun. 2015 - UN COI-Gaza (para. 230) stated	<u>ah.org/eng</u>
(1 case)	children feeding pigeons on	that the Israeli army may have failed to take all feasible measures to avoid or at least to	/Articles/2
	house rooftop (with Al Mezan)	minimize harm to civilians, and that this	<u>313/Adala</u> h-
		attack could be deemed disproportionate.	demands-
			investigati
		July 2015 - Adalah sent a letter to the MAG	ons-into-
		asking for its response to Adalah's previous	<u>killings-of-</u>
		demands and the COI report.	<u>Z</u>
		January 2016 – Adalah sent a reminder	
		letter to the MAG asking for its response to	
		Adalah's previous demands and to the COI	
		report.	

		April 2016 – Military informed Adalah that	
		the case was still under examination.	
		June 2016 – Adalah asked for updates on	
		the case.	
July 24	Demand for investigation re		http://adal
	attacks on Al Aqsa Hospital	Dec. 2014 - Military informed Adalah that	ah.org/eng
(3 cases)	in Deir al-Balah and Beit	no investigation would be opened in the	/Articles/2
	Hanoun Hospital, and	ambulances case. In their response, the	<u>314/Adala</u>
	ambulances	military said that they could not detect the	<u>h-</u>
	(with Al Mezan)	mentioned attack and that the complaint	demands-
		was not sufficient.	independe
			<u>nt-</u>
		Jun. 2015 - UN COI-Gaza (para. 464, 479)	<u>investigati</u>
		asserted that the targeting of medical	<u>on-into-on</u>
		personnel, vehicles and hospitals may	
		amount to war crimes.	
		July 2015 – Adalah sent a letter to the MAG	
		asking for its response to Adalah's previous	
		demands and the COI report.	
		• •	
		June 2016 – Military informed Adalah that	
		the 2 cases of attacks on Al Aqsa and Bet	
		Hanoun hospitals are still under the	
		examination of the FFA mechanism.	
July 27	Attack on Beit Hanoun	Sep. 2014 - Military informed Adalah that it	
(1)	UNRWA school/shelters	was opening an investigation . Adalah	
(1 case)	(with Al Mezan)	learned from the media that Israel was	
		cooperating with the UN Board of Inquiry independent investigation. UN Board	
		released its findings in April 2015.	
		Jun. 2015 - UN COI-Gaza concluded that	
		these attacks are highly likely to constitute	
		indiscriminate attacks, which may qualify as	
		a direct attack against civilians and	
		therefore may amount to a war crime.	
		July 2015 – Adalah sent a letter to the MAG asking for its response to Adalah's previous	
		demands and the COI report	
		demands and the correport	
		Nov. 2015 – Military informed Adalah that	
		the Military Police Criminal Investigation	
		Division's investigation was still in progress	
		and that once completed, it would be	
		referred to the MAG for decision. It was also	
		stated that the COI report was included in	
		the investigatory file.	
		Feb. & June 2016 – Adalah sent reminder	
		letters to the MAG asking for updates on	
August 24	Additional Attacks	the case.	http://!-!
August 31	Additional Attacks on UNRWA schools and safe	Jun. 2015 - UN COI-Gaza concluded that these attacks are highly likely to constitute	http://adal ah.org/eng
(4 cases)	facilities – four different	indiscriminate attack, which may qualify as	/Articles/2
(4 Lases)		mulserininate attack, which may qualify as	/ALUCIES/Z

	attacks referenced:		ck against civilians and	322/Adala
	1) Attack on UNRWA school	therefore may amount to war crimes.		<u>h-and-Al-</u>
	in Deir al Balah;			Mezan-
	2) Attack on UNRWA school		Adalah sent a letter to the MAG	demand-
	in Zaitoun neighborhood;	asking for its response to Adalah's previous demands and the COI report.		<u>the-</u>
	Attack on UNRWA school			opening-
	in Jabaliya;			<u>of-into-</u>
	4) Attack on UNRWA school	Nov. 2015 –	Military informed Adalah that	<u>the-of</u>
	in Rafah.	all of the cas	es were still under	
	(with Al Mezan)		, with the exception of the	
		Jabaliya Scho	ool case, which the MAG	
		referred to t	he MPCID for investigation.	
		Feb. & June	2016 – Adalah sent reminders	
			e MAG asking for updates on	
		the cases.		
		August 2016	– Military announced in the	
			o investigation would be	
		opened in th	he attack on the school in Rafah.	
		The military	said that they were targeting	
		three militar	y operatives riding a	
		motorcycle,	and that it wasn't possible to	
		divert of the	munition after the targets rode	
		close to the	school.	
Sept. 1	Demand for investigation re	No response to date.		
	direct attack on a soap and			
(1 case)	cleaning materials factory	July 2015 & .	June 2016 – Adalah sent a letter	
, ,	, ,	-	asking for its response to	
		Adalah's previous demands.		
JOINT LETTE				
July 14	Joint letter regarding calls		http://adalah.org/eng/Articles/	2307/Joint-
	to vacate northern Gaza		letter:-Grave-concern-regarding	
	(with ACRI, B'Tselem,			
	Amnesty-Israel, Gisha, PHR,			
	PCATI, Yesh Din, HaMoked)			
July 21	Joint letter with ACRI and		http://www.acri.org.il/en/2014	/07/21/gaza
,	others about targeting		-int-law/	
	civilians, especially home			
	demolitions			
June 22	Joint letter with HR NGOs in		http://www.acri.org.il/en/2014	/06/22/colle
	Israel to Refrain from		ctive-punishment/	
	collectively punishing			
	civilians (West Bank)			
July 23	Joint letter with GISHA and		http://www.acri.org.il/en/2014	/07/23/gaza
-	others about preventing the		-infrastructure/	
	collapse of infrastructure			
	water and electricity			

Adalah's Report to the UN Commission of Inquiry, January 2015:

http://www.adalah.org/uploads/2 Adalah-Submission-UN-COI-Gaza-2015.pdf

Key observations from the UN COI-Gaza report:

http://www.ohchr.org/EN/HRBodies/HRC/ColGazaConflict/Pages/ReportColGaza.aspx

Para. 243 Observations re: tactics of targeting residential buildings and impact on civilians including
women and children -- "These observations raise concerns that these strikes may have constituted
military tactics reflective of a broader policy, approved at least tacitly by decision-makers at the highest
levels of the Gol. Such tactics appear to have prioritized the perceived military objective over other
considerations, disregarding the obligation to minimize effects on civilians."

Key points of COI-Gaza report regarding domestic accountability:

- Para. 619, "...a central failing of the investigation system stems from the dual responsibility of the MAG"
- Para. 632, failure of Israeli investigative system in the case of the four Bakr boys (on the beach in Gaza)
- Para. 640, failure to investigate the role of political and military leadership, "FFA mechanism [in Gaza] focuses on so-called 'exceptional incidents' suggesting a rather narrow approach, which may fail to take into account violations of international law that result from an intentional policy or military commander, which itself may fail to comply with international legal obligations. [...] There is therefore a need to look into the various stages of decision-making, notably in the design, planning, ordering and oversight go the military operations."
- Para. 641, unclear how AG is actively and wholly fulfilling his role to provide oversight of the MAG.
- Para. 644, "...the commission is not aware of any on-going investigations of senior officials for alleged violations of international humanitarian law or international human rights law."
- Para. 650, "Israel has failed to hold accountable those responsible for alleged grave violations of IHL and IHRL resulting from IDF actions during recent past active hostilities in Gaza."

Key concluding observations from COI-Gaza report regarding accountability:

- Para. 670, impunity prevails for violations of IHL and IHRL by Israeli forces
- Para. 671, "Questions arise regarding the role of senior officials who set military policy in several areas examined by the commission, such as in the attacks of the Israel Defense Forces on residential buildings; the use of artillery and other explosive weapons with wide-area effects in densely populated areas; the destruction of entire neighbourhoods in Gaza; and the regular resort to live ammunition by the IDF, notably in crowd-control situations, in the West Bank. In many cases, individual soldiers may have been following agreed military policy, but it may be that the policy itself violates the laws of war."
- Para. 672, "The commission's investigations also raise the issue of why the Israeli authorities failed to
 revise their policies in Gaza and the West Bank during the period under review by the commission.
 Indeed, the fact that the political and military leadership did not change its course of action, despite
 considerable information regarding the massive degree of death and destruction in Gaza, raises questions
 about potential violations of international humanitarian law by these officials, which may amount to war
 crimes. Current accountability mechanisms may not be adequate to address this issue."