



# ISRAEL'S INITIAL RESPONSE TO OHCHR BACKGROUND NOTE

June 2024

## Introduction

The following document will briefly address some of the issues that render the OHCHR's analysis in its background note, legally unsound. It is important to note that this constitutes an initial response, and the State of Israel reserves the right to provide a more comprehensive response in the future that will further address the claims raised in the background note.

A thorough reading of the note reveals numerous biases and methodological issues. The analysis in the document is factually, legally, and methodologically flawed. It commonly relies on partial information and overlooks operational considerations and other aspects crucial to clearly assess the situation. Here are some examples of issues with the document's analysis:

1. **Ignoring Operational Constraints and Limitations** - The document assumes there are no constraints, limitations, and operational considerations that justify acting in a certain manner.
2. **Over-reliance on Public Information Only** - The document relies entirely on public information, ignoring the fact that often, information that formed the basis for military attacks cannot be published.
3. **Legal Analysis Based on Result** - The document analyses are legally based on the final outcome, instead of asking the question of conduct. Properly assessing lawfulness of military conduct requires the assessment of real-time decision-making based on information available at the time of the decision, not solely on the outcomes
4. **Assuming that Number of Strikes or Choice of Weapons Indicates a Problem with Distinction** - The document assumes that attacking a large number of targets, or that using certain munitions, implies a problem with the application of the rules of distinction, without any *factual* basis for such assumptions.
5. **Reliance on Casualty Numbers from Hamas** - The document relies on casualty numbers from Hamas, which have been proven to be misleading and unreliable.
6. **Ignoring Operational Considerations in Weapon Selection** - The document completely ignores operational considerations and military logic in weapon selection. Weapon choice can depend on a wide range of factors, including efficiency, availability, and various operational conditions.

*Legal conclusions must be established in accordance to a concrete factual foundation.* This essentially means that the application and interpretation of the law depends on the specific facts and circumstances of a given case. The full factual context of a case or an incident is foundational and must be established before the law can be appropriately applied - facts come first, and then the law is applied to those facts.

This is true to the application of the Law of Armed Conflict (LOAC) as well. Proper assessment of the full factual context in which operational decisions are made is key when addressing such decisions and applying the law to them. Such factual assessment will take into consideration, *inter alia*, the specific intelligence and knowledge available to the commanders who direct strikes; the characteristics of enemy conduct; the characteristics of the battleground, including presence of civilians and civilian infrastructure as well as military assets; the military objectives and targets of a strike, and the military advantage gained from them.

**Since the OHCHR has, at best, a partial factual picture, any attempt to reach legal conclusions is inherently flawed.**

### **The Applicable Law**

The applicable legal framework governing the hostilities is LOAC, in particular its rules regulating the conduct of hostilities. The State of Israel is committed to complying with international law when conducting its military operations. *The IDF has incorporated the rules of LOAC into all aspects of military operations*, including through legal training, operational procedures and plans, ongoing legal advice to different levels of IDF command, and robust and independent mechanisms to investigate allegations of IDF misconduct. Accordingly, Israel consistently applies the rules of LOAC, including those concerning distinction, precautions, and proportionality in carrying out attacks. This is notwithstanding the fact that the other parties to the conflict cynically violate these rules deliberately and systematically.

### **Distinction**

The IDF is fighting Hamas and the other terrorist organizations in Gaza, not the civilian population. In accordance with the principle of distinction, the IDF only targets persons who are members of organized armed groups or civilians directly participating in the hostilities, and objects that qualify as military objectives. In terms of objects, Israel applies the customary definition of “military objectives” as reflected in Article 52(2) of Additional Protocol I of the Geneva Conventions.<sup>1</sup>

As is well documented, Hamas systematically and unlawfully embeds its military assets within heavily populated areas, and carries out its military activities amongst, behind, and under its own civilians.<sup>2</sup> In this regard:

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<sup>1</sup> According to this Article, “military objectives” are limited to “those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.”

<sup>2</sup> Customary international law obligates parties to an armed conflict to take various steps to mitigate, to the extent feasible, the harm to the civilian population under their control resulting from the dangers of military operations. This customary rule is reflected in Article 58 of Additional Protocol I and Article 13(1) of Additional Protocol II.

- Hamas's military infrastructure, command, militants, communications, and weapons are deliberately located within residential, commercial, and other civilian buildings, including specially protected sites,<sup>3</sup> for the most part in the densest parts of Gaza.
- Hamas exploits the civilian population as human shields.<sup>4</sup>
- Hamas prepared and initiated the October 7 attacks from within civilian neighbourhoods adjacent to Israeli territory, and used these areas to continue performing raids into Israeli territory in the days following.
- A central part of Hamas's military strategy and activity relies on an extensive tunnel network, assessed to extend to hundreds of kilometres underneath densely populated areas and sensitive sites throughout Gaza.
- In expectation of the IDF's ground activities, Hamas has booby-trapped civilian buildings and roads throughout the Gaza Strip, and uses or designates numerous civilian buildings as posts for sniper fire, the launch of anti-tank missiles, and intelligence gathering.

Given this reprehensible strategy, many ostensibly civilian objects may become legitimate targets, as LOAC prescribes that civilian objects become legitimate military targets when, *inter alia*, they make an effective contribution to military action by their purpose or use. Indeed, these facts are completely absent from the background note. As a result, it cannot be concluded that civilians or civilian infrastructure have been targeted or that an attack was unlawful, from seemingly looking only at the results of a military operation. Rather, lawfulness is based on facts on the ground and intelligence, which for obvious reasons is not publicly available.

### **Proportionality**

Israel abides by the rule of proportionality in conducting attacks. According to this rule, it is prohibited to carry out an attack when the expected incidental loss of civilian life, injury to civilians, or damage to civilian objects will be excessive in relation to the concrete and direct military advantage anticipated from the attack.<sup>5</sup> Under customary international law, military advantage may include a variety of operational considerations such as disrupting enemy activities, weakening the enemy's military forces, and protecting the security of one's own forces and civilians.

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<sup>3</sup> Hamas exploits hospitals and ambulances to conduct military operations, despite the special protection afforded these units and transports under customary international law, as well as the special protection afforded to the sick and wounded civilians often present in these facilities. These customary rules are reflected in Articles 10, 12(1), and 21 of Additional Protocol I; Articles 8 and 11 of Additional Protocol II; Article 18 of the Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949; and Article 19 of the Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva, 12 August 1949.

<sup>4</sup> Using the presence of civilians to shield military targets from attack is prohibited by customary international law. This customary rule is reflected in Article 51(7) of Additional Protocol I.

<sup>5</sup> This customary rule is reflected in Article 57(2)(b) of Additional Protocol I, which states that "an attack shall be cancelled or suspended if it becomes apparent ... that the attack may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated."

In the context of current hostilities, the IDF seeks to gain military advantage in a variety of ways, including by targeting Hamas command and control centers, militants, military offices, weapons depots, sniper posts, launch sites and tunnel networks. The military advantage anticipated from these attacks includes destruction of military infrastructure and incapacitation of command activities. Attacks against military objectives have also been conducted in areas used by Hamas as staging points to carry out raids against Israel and to fire anti-tank missiles and mortar barrages into Israel, particularly areas that are close to the Israel-Gaza border. The IDF is also targeting Hamas's surveillance and attack positions deeper in Gaza and tunnels that form part of the wider network intended for a wide range of military purposes, including attacks against Israeli civilians and tactical advantages over IDF soldiers within Gaza.

IDF procedures require conducting an individual assessment of the anticipated military advantage and collateral damage expected. Such assessments are not made categorically in relation to the approval of individual strikes.

Estimating expected civilian harm can be very challenging, especially when operating in a complex and dense urban environment where civilian presence is dynamic and often hard to ascertain. The IDF invests significant resources, both routinely in preparing for hostilities and throughout active hostilities, in collecting intelligence that would support real-time assessment of expected civilian harm. Due to Hamas's tactics of embedding itself within the civilian population and preventing the evacuation of civilians, incidental damage to civilians and civilian objects is, unfortunately, in many cases unavoidable despite mitigation efforts.

The proportionality assessment – with respect to both civilian harm and military advantage – is based on the facts as they were understood in real-time, and on the military commander's judgment at that time, and not in hindsight. To determine compliance with proportionality, it is vital to have thorough knowledge of the available facts and the judgement calls leading to the military commander's decision at the time of the attack.

It should be noted, that commanders are required to consider only the harm that could reasonably be anticipated at the time of the decision. This means evaluating potential civilian harm and the military advantage based on the information available and the circumstances at that moment. If the attack tragically results in more incidental damage than expected, this does not necessarily indicate a violation: compliance is conduct-oriented, not result-oriented.

### **Precautions**

LOAC also requires that parties to hostilities take precautions in attacks, that are feasible under the operational circumstances to minimize the expected incidental loss of civilian life, injury to civilians, and damage to civilian objects.<sup>6</sup> What is feasible under international law amounts to what is practically possible, taking into account the circumstances at the time. In implementation of this obligation, for example, the IDF employs specific procedures for determining targets and carrying out attacks. The IDF reviews targets before strikes and

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<sup>6</sup> This customary rule is reflected in Article 57(2) of Additional Protocol I.

chooses the proper munition in accordance with operational and humanitarian considerations, taking into account an assessment of the relevant structural and geographical features of the target, the target's environment, possible effects on nearby civilians, critical infrastructure in the vicinity, and more.

Additional precautionary measures include providing effective advance warnings of attacks where circumstances permit.<sup>7</sup> The IDF has dropped millions of leaflets over areas of expected attacks with instructions to evacuate and how to do so, broadcasted over radio and through social media messages warning civilians to distance themselves from Hamas operations, and in many cases made individual phone-calls to occupants of targets, warning them of impending attacks. Where circumstances do not permit providing effective advance warning before an attack – such as when the strike is aimed at a militant who may exploit the warning to escape, or when there is insufficient time to provide a warning (for example, when an enemy attack is imminent) – there is no legal requirement to do so.

It should be noted that in practice, some of the IDF's precautionary practices go beyond its legal obligations.

### **The Incidents Listed by OHCHR**

Without a thorough understanding of the specific circumstances surrounding an attack — such as the information held by the commander, the nature of the target, the assessed military advantage prior to the strike, the operational planning and alternatives explored to achieve the goals of the strike, etc — it is impossible to assess adherence to IHL. For instance, in order to address the question whether other means and methods were feasible in order to destroy a Hamas terror tunnel, one would have to hold a full factual understanding on what other means were considered effective against that tunnel; what was the defined military advantage to achieve, including the elimination of militants and infrastructure; how many militants were known to be in the tunnel at the time of the strike, in a manner which affects both the time-frame of the strike and alternatives for ariel munitions; how many civilians were expected to be harmed by the strike; and more.

**OHCHR does not hold a full understanding of the facts and circumstances surrounding the mentioned attacks, except for what was published by the IDF, which is limited due to security and operational considerations, as well as others.**

For example, though not published at the time by the IDF spokesperson, **the strike at Jabalya on 9 October comprised of several military targets** including a terror tunnel with tunnel shafts, which was part of a Hamas compound that also held a rocket launcher and Hamas military infrastructure, alongside Hamas militants. Any proper legal assessment of the strike must take into consideration the military advantage of all the targets which were struck, compounded by the fact that at the time there were no alternatives for ground operations.

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<sup>7</sup> This customary rule is reflected in Article 57(2)(c) of Additional Protocol I, which states that “effective advance warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit.”

Lack of information regarding the strike on **25 October** requires similar caution in legal conclusions. While the sensitivity of the information prevents a more elaborate response, it can be mentioned that on that day, the IDF struck several unique and high value Hamas military assets and infrastructure, which were used by Hamas' highest level of military commanders, both above and underground. The strike on **2 November** included several Hamas infrastructures.

Similarly, flaws can be found in the legal assessment of the strike at **Jabalya on 31 October**. As published by the IDF spokesperson, the target of the strike included not only Ibrahim Biari, a high-ranking commander of Hamas, but also several other Hamas militants and Hamas terror infrastructure, holding a significant military advantage.

It should be emphasized that when several military targets are struck simultaneously, the proportionality assessment must not only take into account the military advantage of each of the different targets, but also the military advantage of the attack as a whole:

- Since each militant contributes independently to the military actions of Hamas, each militant eliminated can hold a separate military advantage to the IDF.
- Naturally, eliminating a commander together with his subordinates or other combatants, as well as military infrastructure, holds an even greater military advantage, as it holds the potential of degrading Hamas capabilities to remain organized and fight in a certain area.

In both strikes (of **15 November** and **2 December**) the military objectives included high ranking commanders, military operatives, and military infrastructure. Thus, the notion that the expected incidental damage of the strikes were weighed against a single Al Qassam commander "whether with or without other combatants", is factually wrong, and leads to a flawed legal conclusion.

### **The choice of means and methods by the IDF during targeting**

In choosing and employing its means of warfare, the IDF adheres to the applicable rules of international law, namely, Israel's obligations as a party to international conventions governing certain means of warfare and Israel's obligations under customary international law. The IDF deploys only legal means of warfare, and does so in a manner consistent with the Law of Armed Conflict. Applicable IDF directives require military commanders, where it was feasible, to consider the various means of warfare that are equally capable of achieving a defined military objective, and to choose the means that is expected to cause the least incidental damage under the circumstances.

A basic aspect of a professional targeting process is adjusting the size of munitions' payloads to the target, in accordance with the desired military objective as well as legal and other constraints. While some military objectives can be achieved using small munitions, certain military objectives cannot be accomplished without using heavier munitions. In the urban context, it is particularly relevant to consider the structural materials relevant and the ability of certain munitions to accomplish the desired effect against structures, such as those made of reinforced concrete, stone, or brick.

In the context of the Gaza war, a proper understanding of the nature of how Hamas and other organized armed groups in Gaza operate is crucial. By now, the extensive and unprecedented way in which Hamas and other organized armed groups in Gaza have incorporated themselves into the civilian environment is well documented. Large parts of neighborhoods in the Gaza Strip were converted, sometimes containing substantial portions of the buildings in them, into combat complexes that include ambushes, command and control apartments, weapons caches, observation posts, firing positions, trapped houses and explosives in the streets and rocket launchers. That is to add to the extensive use of terror tunnels, going beneath neighborhoods, schools, UN facilities, and other civilian objects, with thousands of tunnels shafts inside and around such infrastructure, and containing the presence of many military operatives inside these tunnels.

**In many instances, aerial munitions, including those with a wider area of effect, are the only type of weapon that can accomplish the military objective. The OHCHR Background Note lacks both operational expertise and the facts on the ground in order to properly assess strikes conducted by the IDF.**

Even as larger explosive weapons may be necessary to accomplish a military objective, the choice of munitions is only one aspect that is implicated by the legal obligation to take feasible precautions. There are additional safeguards in the planning process, including choice of weapons, that may reduce incidental damage, including the type of fuse (impact, time, or proximity), angle of attack, timing, and choosing the point of impact of a strike.

### **Disadvantages of relying on public information for legal analysis**

As a matter of law, no army or State has an obligation to disclose information or intelligence regarding strikes conducted during hostilities. In many times, sharing the intelligence held by the commander prior to the strike, and sharing details regarding the targets struck (even after conducting the attack) might compromise sources or intelligence tactics, techniques, and procedures, thus undermining the effectiveness of the intelligence and disrupting future intelligence gathering.

As a matter of policy, and when possible, without compromising other efforts, the IDF will publish details regarding targets and the precautions taken in order to mitigate civilian harm. However, even when there are no restrictions on publishing the information, it might not be feasible to do so for each and every strike, due to the intensity of the hostilities.

Since facts are the basis of any legal analysis, any ambiguity or incomplete information regarding the targets and circumstances compromise the ability to judge the legality of an attack. Therefore, the chosen methodology by which OHCHR analyzes these strikes, which includes mainly relying on alleged results and media coverage, leads to an inaccurate understanding of which targets were struck, the military importance given to each target, and the operational constraints. It is clear that OHCHR's note suffers from these flaws, leading to a misapplication and unjust accusations of violations.

## Fatality Figures

A prominent example that reveals the bias nature of the OHCHR note is the citing of Hamas fatality figures.

Every civilian death is a tragedy, and the State of Israel does not detract from the civilian suffering and hardship following Hamas's instigation of this war. However, the attempt to use unsubstantiated fatality figures and statistical manipulation on numbers in order to indicate unlawful conduct under international law is cynical and unethical.

As with other conflicts in recent years, civilian casualty data is notoriously difficult to obtain and ascertain in the midst of hostilities. This is all the more so in the context of hostilities taking place in complex circumstances in the urban theatre, against an adversary that controls the territory, the relevant authorities and agencies, and which has a documented practice of false reporting, including with regard to casualties.

An IDF intelligence analysis of the verifiable list of named casualties published by Hamas Ministry of Health on April 30 has found the following:

- The named list does not distinguish between civilians and militants.
- Some militants are prescribed as female.
- The list includes minors who are identified militants.
- The list includes people whose circumstances of death are by Hamas and other organized armed groups conduct, such as misfires or IED's placed in populated areas.
- The list includes people whose circumstances of death are unrelated to the war.
- The list has other incongruities, such as false or consecutive ID numbers.

The UN itself has recently amended the reported numbers, acknowledging that over 10,000 of the casualties claimed by Hamas (almost a third of all casualties claimed by Hamas) are not based on verifiable information, and ceasing to repeat the baseless claim that 70% of the casualties are women and children. This shift strengthens the Israeli position from the early stages of the war regarding the inability to properly assess fatality figures in this stage of the war.

Below are only some examples of identified Hamas and PIJ militants within the Ministry of Health named list from April 30:

انثى	22	407806660	خليل ابراهيم عبدربه برغوث	12713
خليل ابراهيم عبدربه برغوث			<b>Khalil Ibrahim Abd Rabbo Barghout</b>	
ID number: 407806660			Sex: Male	
Published sex in reported list of fatalities: Female				
Affiliation: Palestinian Islamic Jihad				
Role: Commander in the Khan Yunis Brigade.				



انثى		40	800185514	محمد محمد حمدان العصار	7594
محمد محمد حمدان العصار				<b>Muhammad Muhammad Hamdan Al-Assar</b>	
ID number: 800185514				Sex: Male	
Published sex in reported list of fatalities: Female					
Affiliation: Hamas					
Role: Head of Hamas Anti-Tank Array.					

ذكر	جباليا	36	801765835	مصطفى كمال عوض ابوسخيله	2403
مصطفى كمال عوض ابو سخيله				<b>Mustafa Kamal Awad Abu Sakhila</b>	
ID number: 801765835				Sex: Male	
Affiliation: Hamas					
Role: Hamas operative.					

انثى		34	802625129	محمد سليمان عبد الكريم ابو سعادة	13629
محمد سليمان عبد الكريم ابو سعادة				<b>Muhammad Suleiman Abdel Karim Abu Saada</b>	
ID number: 802625129				Sex: Male	
Published sex in reported list of fatalities: Female					
Affiliation: Palestinian Islamic Jihad					
Role: Palestinian Islamic Jihad Operative in the Khan Yunis Brigade, Engineering Corps.					

ذكر	غزة	33	802675603	محمد جواد سالم الواديه	5621
محمد جواد سالم الواديه				<b>Muhammad Jawad Salem Al-Wadiya</b>	
ID number: 802675603				Sex: Male	
Affiliation: Hamas					
Role: Hamas operative.					

انثى		31	804574614	مهند محمد عبد الرحمن نوفل	7641
مهند محمد عبد الرحمن نوفل				<b>Muhannad Muhammad Abd al-Rahman Nofal</b>	
ID number: 804574614				Sex: Male	
Published sex in reported list of fatalities: Female					
Affiliation: Hamas					
Role: Hamas operative in the Central Brigade.					

ذكر		50	900191578	تيسير امين محمد المباشر	13285
تيسير امين محمد المباشر				<b>Tayseer Amin Muhammad al-Mubashir</b>	
ID number: 900191578				Sex: Male	
Affiliation: Hamas					
Role: Hamas Commander of Khan Yunis Camp Battalion.					

ذكر	50	900221789	أيمن أحمد عبدالله نوفل	8268
أيمن أحمد عبدالله نوفل			<b>Ayman Ahmed Abdullah Nofal</b>	
ID number: 900221789			Sex: Male	
Affiliation: Hamas				
Role: Commander of Hamas Central Brigade.				
ذكر	غزة	45	901472274	رفعت محمود عيسى عباس
رفعت محمود عيسى عباس			<b>Refaat Mahmoud Issa Abbas</b>	
ID number: 901472274			Sex: Male	
Affiliation: Hamas				
Role: Hamas Commander of Tuffah Battalion.				
ذكر		43	905388112	مدحت صالح اسماعيل المباشر
مدحت صالح اسماعيل المباشر			<b>Medhat Saleh Ismail al-Mubashir</b>	
ID number: 905388112			Sex: Male	
Affiliation: Hamas				
Role: Hamas Commander of Western Khan Yunis Battalion.				
ذكر	غزة	42	906735725	محمد خضر محمد رشاد ابو توهه
محمد خضر محمد رشاد ابو توهه			<b>Muhammad Khader Muhammad Rashad Abu Toha</b>	
ID number: 906735725			Sex: Male	
Affiliation: Hamas				
Role: Hamas operative.				
ذكر		42	931569453	محمد فتحي محمد قطامش
محمد فتحي محمد قطامش			<b>Muhammad Fathi Muhammad Qatamesh</b>	
ID number: 931569453			Sex: Male	
Affiliation: Hamas				
Role: Deputy Chief of Hamas Rockets Array.				
ذكر		53	945754539	وائل محمد محمود عسفه
وائل محمد محمود عسفه			<b>Wael Muhammad Mahmoud Asfa</b>	
ID number: 945754539			Sex: Male	
Affiliation: Hamas				
Role: Deir al-Balakh Battalion Commander.				

Yet again, it should be noted that the **total** number of casualties does not determine the legality of a **particular** strike. Each strike must be individually assessed to determine its compliance with IHL, regardless of the overall casualty count. Implying that the legality of military actions can be assessed on the total number of casualties risks unjustly attributing blame or exoneration across a series of operations without considering the unique aspects of each one, obscuring the real-time decision-making processes that commanders undertake. This tendency is another indication for the note's hindsight bias.

### **Examinations and Investigations Regarding Alleged Misconduct During the War**

The IDF is conducting examinations and investigations of possible misconduct in the context of operational activity, in accordance with its obligations under Israeli and international law. The IDF's robust military justice system is in charge of such examinations and investigations, which have also been taking place during the current war.

IDF forces are obligated to report incidents that raise suspicion for violations of the law or IDF orders. Any report (submitted by IDF forces or received otherwise), complaint, or allegation that suggests misconduct by IDF forces, undergoes an initial examination process, irrespective of its source.

In the context of armed conflict, death or injury to a civilian or harm to civilian objects, while tragic and regrettable, in most cases do not by themselves indicate a reasonable suspicion of criminal conduct, as they can be explained by lawful operational activity. Hence, most cases require prior factual assessment. In general, such cases are referred to the General Staff's Fact-Finding and Assessment Mechanism ("FFA Mechanism"), which is responsible for conducting factual assessments of exceptional incidents. Once a factual assessment is complete, the findings and collected materials are submitted to the Military Advocate General (MAG) corps for a decision on whether the opening of a criminal investigation is required. In this regard, when reaching a decision, supplementary examinations and materials may be requested from the FFA Mechanism or other relevant entities. The FFA Mechanism also recommends lessons-learned from previously examined incidents to improve IDF practices and procedures.

For further reading regarding the FFA Mechanism, please see publication on the IDF website: <https://www.idf.il/en/mini-sites/military-advocate-general-s-corps/addressing-alleged-misconduct-in-the-context-of-the-war-in-gaza/>

**Except for the strike dated to 9 October on Jabalya market, all strikes mentioned in the OHCHR note were previously referred to the FFA Mechanism and are currently being examined.**

### **Conclusion**

The State of Israel firmly rejects the conclusions and factual assertions portrayed in the background note, as they are methodologically flawed. The note aims to assess the legality of aerial strikes, though lacking many crucial facts and understandings that are crucial for any sound legal discussion. It is apparent that the document suffers from hindsight and methodological biases which cast a shadow on the credibility of its legal assessment.

It also appears that the authors of the background note lack operational expertise to fully grasp the rationale of military operations and the need for specific munitions in an operational reality.

The IDF has a robust legal system to oversee compliance with IHL during hostilities. As noted, the incidents described are currently under thorough examination by the FFAM, in order to examine the operational decision-making process.

As outlined at the outset of this response, this is only an initial response, and the State of Israel reserves the right to provide more comprehensive information in the future that will address all the claims raised in the background note.