

Israeli Military Aggression on the Gaza Strip 2021

Impact on the Justice Sector



Palestinian Centre for Human Rights

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Introduction

The latest Israeli intensive military offensive on the Gaza Strip, which continued from 10 May 2021 to 21 May 2021, inflicted 242 deaths and 1846 injuries in addition to large-scale destruction on different levels including houses, residential buildings, schools, governmental institutions, infrastructure, factories, workshops, and roads. The offensive has exaggerated the suffering of people living in the Gaza Strip that is already suffering, particularly at the economic level, due to the tightened Israeli-imposed closure on the Gaza Strip for the last 14 years; the repercussions of the Palestinian internal division; and the successive closure measures since March 2020 due to the procedures imposed to combat the outbreak of coronavirus. This military escalation came as IOF continue escalating its attacks across the occupied Palestinian territory, particularly the Gaza Strip, as evident by the fact of 54 years of occupation of the Palestinian territory and the closure imposed on the Gaza Strip.

The Justice Sector was one of the sectors mainly affected by the Israeli aggression on the Gaza Strip as some offices, buildings and institutions that fall within the Justice sector sustained severe damage, including law firms that were completely destroyed by IOF's strikes. Justice sector is considered one of the main sectors in the country as it is a key instrument in achieving security, calm and stability in society. The Justice sector includes Civil Police, Public Prosecution, Civil and Sharia courts, and lawyers. All those facilities had been completely obstructed during the offensive, and some of them sustained partial damage or were completely destroyed by IOF's strikes, particularly law firms with all the important papers and files of their clients.

Justice sector, including police stations, is considered a civilian facility according to IHL; thus, it should not in any way be targeted as long as it has not been used for military purposes. According to Customary International Law and Additional Protocol I to the Geneva Conventions of 1977, civil defense and police are civilian targets that should be protected and not targeted.

It should be noted that the tension between the Palestinian armed groups and Israeli occupation started due to the Israeli arbitrary restrictions and practices against the Gaza Strip and Jerusalem. The tension peaked following the Israeli police's attempts to forcibly displace civilians from their houses in al-Sheikh Jarrah neighborhood in occupied Jerusalem and the attacks on worshippers at al-Aqsa Mosque by trying to expel them and using excessive force to pave the way for settlers to raid al-Aqsa Mosque. The escalation on the Gaza Strip started on 10 May 2021 when IOF declared the next day the beginning of its widescale military aggression on the Strip dubbed as "Guardian of the Walls" under the pretext of rockets launched by the Palestinian armed forces.

This report is based on descriptivism when presenting facts about the impact of the Israeli aggression on the justice sector as well as firsthand information collected by PCHR's Fieldwork Unit and from intense interviews the report's researcher held with lawyers. The report provides information on the impact of the Israeli aggression on the justice sector and the direct and indirect damage caused by the Israeli military offensive on the Gaza Strip (10-21 May 2021), including the Civil police, Civil prosecution, Regular and Sharia courts, and law firms. The report particularly focuses on law firms that sustained damage due to the aggression since many of those firms were completely destroyed; critically affecting the administration of justice after loss of official papers and files, which are indispensable supporting documents.

Civil Police:

Impact on the Justice Sector

The Israeli offensive disrupted the Civil police's work in terms of receiving complaints, thereby affecting the justice sector's work in general and suspending fulfillment of rights and execution of either regular or sharia courts' verdicts. All of this combined had a negative impact on citizens' rights and freedoms and aggravated the suffering of right-holders, particularly in child custody and maintenance cases. Moreover, some parties to the cases exploited police absence to change facts in the cases the courts were working on; thereby complicating these cases and prolonging the dispute.¹

Moreover, many Palestinian police headquarters in the Gaza Strip were directly targeted by the Israeli warplanes during the offensive on the Strip. The Israeli warplanes launched several missiles at the Police Headquarter in central Gaza City and destroyed some administrative buildings. Also, Beit Lahia police station sustained severe damage after IOF's warplanes targeted an agricultural land to its northeastern side on 11 May 2021, rendering the station unfit for use. According to the Ministry of Interior, the structural damage was estimated at USD19,000, other than the furniture, devices, and the damage to other contents.

Civil Prosecution:

The public prosecution is deemed a sovereign body that represents the public interest of any state as its main mission is to maintain the rule of law and prosecute any assault to the public security and public peace. It is one of the vital facilities; any disruption of its work would inflict serious consequences to the justice sector and impinge on citizens' security and rights. The public prosecution's work was suspended by the Israeli aggression on the Gaza Strip, entailing procedural complexities relevant to citizens' rights and fundamental freedoms, particularly release orders and detention warrants. During the aggression, the Prosecution members could not practice their legal role in criminal cases although there have been cases of burglary, robbery, and drugs. This happened due to many obstacles, including prosecutors' not being able to question face-to-face the detainees due to their inability to reach the prosecution's offices. As a result, the prosecution separately assessed the circumstances of each case and ordered the law enforcement officers to collect evidence and delay detention after the aggression in addition to limiting detention to the minimum possible.²

It became worse when some Civil Prosecution buildings sustained damage; some were severe, due to the Israeli offensive on the Gaza Strip. The Gaza Criminal Prosecution sustained critical damage as the building has become unusable. Moreover, the Public Prosecution office; Northern Gaza and Khan Younis Prosecutions sustained partial damage, including broken windows and doors.

Serious damage to Khan Younis Prosecution Building Endangers Lives of staff and citizens

The area adjacent to and surrounding the Khan Younis Prosecution Complex, which is a 450sqm rented building, was heavily shelled. As a result, the building structure sustained damage while its walls cracked and the windows and most of the inside doors were broken and fell out.

The 3-storey building consists of a ground floor that houses a lockup, petition writer and a police station; a first floor housing the Khan Younis Criminal Prosecution; and a second floor housing Khan Younis Public Prosecution.

The staff came back to work in the building 2 days after the end of the Israeli military escalation on 23 May 2021; however, due to the cracks and the leaning southern side of the building, two prosecutors' offices were evacuated as they are not safe and temporary alternatives were found. Moreover, there are

The report presents several case studies examining the impact of the absence of the civil police¹

Information obtained by PCHR fieldworker from a member of the Public Prosecution in the Gaza Strip²

Impact on the Justice Sector

cracks and rifts in the walls and some pillars in the building. After assessing the building, it was decided that the building is inoperable and endangers the lives of the staff and citizens. Thus, the public prosecution has decided to move to another building as soon as possible.

Regular Courts

Regular courts is the core component of the justice sector and they are 3 types: civil and commercial courts specialized in the disputes between citizens or traders; criminal courts which hold criminals accountable; and administrative courts which settle disputes between different governmental bodies or between the latter and citizens. All these courts were suspended by the Israeli offensive on the Gaza Strip, significantly disrupting citizens' interests and jeopardizing their rights and freedoms; particularly release orders, detention warrants and bails. All hearings that have become due during the offensive were postponed for a month and some for 2 months, increasing the caseload and directly affecting the litigation period and citizens' interests.

Meanwhile, the Palace of Justice and Northern First Instance Court sustained partial damage, inflicting huge financial losses, during the Israeli offensive on the Gaza Strip. The Palace of Justice, which is a complex that houses Gaza Strip's courts established only 2 years ago in al-Zaharaa housing project, sustained partial damage due to the IOF's intensive airstrikes which targeted the lands surrounding the complex. Big part of the Palace's glass façade was broken as well as the windows while the ceilings sustained damage. The Palace of Justices houses many courts, police, and administrative offices, including the Gaza First Instance and Magistrate's Courts, the Administrative Court, the Cassation Court and the Supreme Court as well as administrative offices, judicial police and the Appeal and Supreme Prosecutions. Moreover, the Northern Gaza Court sustained partial damage, including broken windows and some doors.

Work at the regular courts was suspended by the offensive that has a direct impact on litigants' rights after the work at police stations, the prosecution and courts was suspended. Thus, all hearings were postponed; lawsuit files were lost due to destruction of lawyers' offices; the judicial leave approached; legal periods timed out for those who lost their files in the offensive. The following are cases where litigants were greatly affected.

Lawyer Khaled Mohammed al-Rayyes:

"I was waiting the Court's verdict but the case was postponed for a long time. I had a property dispute case over a big plot of land. The sentencing hearing was on 19 May 2021 incidentally during the offensive on the Gaza Strip. My client "the owner" agreed with the person who bought the land that the dispute is over as he depended on the sentencing hearing guaranteed in his favor. The offensive occurred and the case was postponed for more than 4 months that means after the judicial leave, which starts from 15 July to 01 September, ends. This has caused a big trouble to my client with the buyer and embarrassed me as his cases was postponed although I promised him the verdict will be issued in May in your favor."

"In another case relevant to a lien on a plot of land owned by client, He wanted to lift the lien as soon as possible, and the sentencing hearing was as well during the offensive but was postponed. The problem is that I need now to re-notify the parties to the case and some of them live abroad. the notices to be delivered take long time as the previous hearing required more than a year for the notices to be delivered. Therefore, my client's interests disrupted, putting me into trouble with him to convince him it was not my fault that the case was postponed. Of course, all of this destroys my reputation as a lawyer."

Lawyer Islam al-Zaeem

Many cases were complicated and several rights were lost due to the Israeli offensive.

Impact on the Justice Sector

Several cases that I mandated became more complicated after the Israeli offensive, which may cause the clients to lose their rights. Disruption the work of the police centers during the offensive led to several problems, as when I mandated a case about a land dispute between two houses, and the opposite party exploited the offensive period and established a small shelter in the disputed land to set up a new legal status, I have not been able to stop him due to the closed police centers and the public prosecution offices.

On the other hand, the Supreme Judicial Council decided to interrupt the legal periods only from 10 May to 01 June 2021, which is insufficient especially in my case, as I lost all the contents of my office which was located on al-Jalaa' tower when the Israeli warplanes targeted the building and completely destroyed it during the Israeli offensive. It was impossible for me to recover all my files and documents, and I could not take copies from the courts for all the cases of my clients due to the pressure on copying files from the courts. Nowadays, I may lose the legal periods of more than 17 case-files, which is very hazardous to my clients and even for me as this may affect my reputation as a lawyer.

Lawyer Suzan Matar

Debts payments were delayed due to the Israeli offensive.

As lawyers, we have greatly suffered from collecting debts, as debts fulfillment through the jurisdiction became unreachable due to closing the police centers and public prosecution offices during the Israeli offensive. However, this suffering is already existed since Covid-19 pandemic outbreak, as in some cases the public prosecution skipped issuing arrest-warrants on debts grounds, for individuals and even for major companies and municipalities, because of the economic situation in Gaza. Of course, such decisions have humanitarian justifications because of the economic situation, but on contrary, clients and debtors also have rights and expectations from us on their issues, and the lawyers are committed to companies and municipalities at a certain rate of debt fulfillment.

On the other hand, several cases were disrupted and suspended because of the Israeli offensive, which coincided with the judicial holiday, and all the delayed sessions will be scheduled after finishing the judicial holiday. Moreover, the matter that increased pressure on us is that all the sessions which supposed to be held during the Israeli offensive on the Gaza Strip were postponed until after finishing the judicial holiday (after the end of September).

Sharia Courts:

The negative effect of the Israeli offensive on personal status cases before Sharia courts

Several personal status cases before Sharia courts were disrupted due to the Israeli offensive on the Gaza Strip. Ghada al-Nazli, a lawyer in PCHR's Women's Unit which provides legal representation before Sharia courts for personal status cases, such as alimony, divorce, viewing and hosting, stated that several cases which supposed to be held during the Israeli offensive were significantly disrupted. Al-Nazli added:

“The disruption of the courts’ and the judicial police’s work caused the postponement of many sessions which dates were due for up to two months, in addition to the sentences’ implementation we obtained previously for more than a month were also delayed. Obviously, this seriously affected PCHR’s clients especially those whose issues are related to alimony or custody, as they are living in a state of tension and impatiently waiting to receive their alimonies, or to view or host their children. However, the Israeli offensive extended the litigation periods due to repeating some legal procedures, as we had to re-declare the date of the sessions that were postponed in the newspaper, and also we were forced to submit requests for re-notification instead of requests that were expired due to the offensive. These difficulties have exacerbated the clients’ sufferings, especially those who are suffering from family disputes. Many clients used to call me to ask about their cases and moan from the difficult situation due to delaying their alimonies, especially since ceasing detention orders against those who do not pay alimonies during the

Impact on the Justice Sector

offensive. All of this caused more procrastination and delayed alimony, and thus exacerbated the women's sufferings."

"One of the cases that seriously touched our hearts was belonging to a mother who filed a custody complaint to take her two children "aged 5 and 6", as her husband deprived her from seeing her children for up to 6 months. When PCHR was able to obtain an urgent meeting to let the mother see her children during the Eid, the Israeli offensive occurred, and the mother lost her chance to see her children, in addition to delaying the custody complaint submitted by PCHR for the same reason. Thus, the Israeli offensive worsened the heartbreak of this woman, who suffers because she was deprived from seeing her children for a very long time. There are three similar cases for mothers who lost their right to urgently seeing their children because of the offensive."

Sharia courts in Palestine are competent to perceive personal status cases for Muslims, as they deal with sensitive family issues, which work was completely stopped during the Israeli offensive on the Gaza Strip, during which the benefits and rights of citizens were disrupted. This doubled the sufferings of citizens with various cases, especially custody and alimony. Some Sharia courts in Gaza were also partially damaged, including the Sharia Court in Beit Lahia, which sustained partial damage, including breaking windows, doors, and a water tank. Also, Sharia Court in Jabalia sustained partial damage, including breaking windows and doors.

The destruction of lawyers' offices:

Lawyers are major part of the justice sector because of their essential role in ensuring the proper application of law and defending people's rights, especially the right of defense, which represents the essence of justice. Several law offices sustained direct and indirect missiles causing complete damage in the offices and contents, most of those offices were located in residential towers which were bombarded by the Israeli warplanes. 33 law-offices were completely destroyed while 240 law-offices were partially damaged³ during the Israeli offensive, causing huge material losses for lawyers, estimated at hundreds of thousands of dollars.

Many cases, submitted before the Palestinian judiciary, and major problems that require years of procedures to resolve were disrupted due to the huge destruction in this vital and important sector, as many files and public identification papers were lost. This constitutes significant damage to the justice sector and a serious threat to the rights of clients.

On the other hand, losing thousands of files due to the bombardment caused heavy burden on the courts in printing copies of all huge number of files, which increased burden to the normal burden of printing files in normal times. This led to delaying lawyers who lost their files in obtaining them to complete their procedures, and even led to the disruption of the work of lawyers in general as a result of the big numbers of lawyers who want to take copies of their files from the courts. This caused missing the legal due-dates for many cases, especially for lawyers who lost their offices, as when the Supreme Judicial Council sat the period of interruption for legal periods⁴ due to the offensive from 10 May to 31 May 2021, and this period was not sufficient for some lawyers whose offices were completely destroyed to restore their files and submit their procedures within the legal deadlines.

This report shows 5 lawyers' cases whose offices were completely destroyed because of the Israeli offensive, which affected them and the rights of their clients.

Lawyer Fadi Nazim Oweida

Lost a huge archive of over than 45 years old

³ Palestinian Bar Association survey on the impact of the Israeli military offensive on lawyers.

⁴ Statutory limits are legally defined periods to accomplish certain procedures such as appeals of administrative decisions (60 days); appeal (30 days), etc. the disruption period is not calculated within the statutory limit as they are usually the result of a certain holiday or emergency occurring (natural disasters or wars).

Impact on the Justice Sector

My father, Nazim Oweida, owned two apartments on the third floor of al-Jala' tower, which were turned into law office in 2004, and included 6 lawyers and 4 trainees. This office contained a huge archive, of almost about 500 files of more than 45 years old, since my father started working as a lawyer, including official papers, copies of original contracts, financial securities, and other supportive documents.

On Wednesday, 12 May 2021, we were surprised when we heard through the media that al-Jawhara building is warned to be bombarded, we headed there immediately in an attempt to rescue the clients' files, but we were prevented from entering the building because the warplanes were expected to launch missiles at the building in any moment. Our office which sustained severe damage contained hundreds of files, contracts, legal library included lots of rare references, computers, furniture, and electrical appliances.

Now we are facing a lot of problems because we only recovered 10% of our archive, and that put us in big troubles with our clients, as we lost original documents and financial securities which have no copies. Recovering these files is a very difficult duty that may take a whole year, in addition to many documents that cannot be recovered, and this puts us in troubles with our clients and exposes our credibility and work in an embarrassing situation, and our clients may file lawsuits against us in order to prove the existence of their papers.

We struggle to return to our well-known level of work, and we face many problems with that, because some of these files are associated with legal periods that have expired or about to expire without being able to recover the files. Our losses were heavy as they reached 135,000 USD. We also need a year of hard work, as a minimum, to be able to restore our work to the way it was before the Israeli offensive that completely destroyed our office.

Lawyer Suzan Fayez Matar

My office, which included 35 employees and important files and holdings, was destroyed.

I had a law firm at the 1st floor of al-Jawhara Tower, which was bombarded by Israeli warplanes on Wednesday, 12 May 2021. I had rented this office since 2017, next to my father's office, lawyer Fayez Matar, whose office was also destroyed by the bombing. In my office, I have been working on cases related to collection of debts, including bills of exchange and checks that usually have only one copy. It should be noted that courts in Gaza only deal with the original copy of these bills of exchange and checks. I had a well-equipped office with 35 employees; some of them have been working on debts collection cases as well as various cases, while other employees have been doing administrative duties. The office was divided by gypsum boards, commonly known as drywall, to make up the individual offices. Moreover, my office was fully equipped with furniture, tablets, two iron safes, modern communication devices, internet, surveillance and recording cameras, and a complete solar energy system.

At approximately 21:15 on Wednesday, we knew from media that al-Jawhara Tower will be bombarded after its guard received a phone call ordering him to evacuate the tower immediately. We never imagined that a tower like al-Jawhara, which was a residential and commercial tower, will be bombarded and completely destroyed. Some employees headed to the office in an attempt to take important holdings and files, but they were prevented from doing so because Israeli warplanes would target the tower at any time. There were a very important files and documents at the office relevant to financial benefits.

Fortunately, the tower did not destroy after bombing it. Next day, we took a huge risk to extract some files from under the rubble, as the bombing may be renewed at any time, otherwise, I would have been facing many problems with my clients. There are still some missing files that need long procedures to

Impact on the Justice Sector

recover. My clients got worried after the office was bombarded, which caused many difficulties to me and my staff, as we exert a lot of efforts to recover the missing files and reassure the clients.

My losses at the office were estimated at \$21,000. Additionally, I lost my workplace that became known to my clients. I may need more than two years to recover my office. There are 35 persons were working in my office and now they may lose their livelihood. This put a lot of pressure on me to look for another office to keep my team engaged in their work. I faced a double rent hike while looking for and renting another office, as prices have dramatically risen. It should be noted that my loss is not only material, as I lost a lot of personal holdings and belongings that were very special and important memories to me.

Lawyer ‘Abed al-Rahman Hashim Kuhail

My office, which included files, identification papers and large sums of money, was destroyed.

Israeli warplanes targeted my family residential building, where my office was located and completely destroyed it. The 4-storey building (500 sqm) was located on Omar al-Mukhtar Street in Gaza City. I had a well-equipped office (70 sqm) at the ground floor, which included office furniture, computers, files, official documents, and other holdings.

On Thursday, 19 May 2021, my brother received a phone call from the Israeli Intelligence Service ordering him to evacuate the building immediately, because Israeli warplanes will target it within 10 minutes. I rushed to my family building, but I could not enter my office or approach the building as it may target at any time. We waited the targeting of the building for several hours, but in vain. The Israeli Intelligence Service phoned us again and told us to return to our house because they will not target it, but we did not do so fearing for targeting it at any time. Indeed, next day the building was bombarded and completely destroyed.

My office was completely destroyed and all files and documents, including bills of exchange and checks estimated at JD 150.000, were lost due to the bombardment.

Unfortunately, I have got a serious problem on my hands, as proving these large sums of money requires long procedures, which may cause a lot of problems with clients whose rights may be lost. Moreover, the original copies of my clients' files and documents were lost due to the bombardment, which may cause many problems with them.

My losses at the office were estimated at \$40.000, in addition to files and documents that need long procedures to recover them. Also, I am afraid that I might face difficulties in recovering these files or I might have problems with my clients. At least, I need two years to weather this ordeal and continue my work normally. I have a big problem that I lost my workplace which was on Omar al-Mukhtar Street. Now, I am waiting the disbursement of compensation to build my office again and continue my work.

Lawyer Ahmed Salah Salama ‘Atallah

My office, which included important files and holdings, was destroyed.

I had a law firm at the 2nd floor of al-Jalaa' Tower, which was bombarded by Israeli warplanes on Saturday, 15 May 2021. I bought this office in 2017, and I have been working as a lawyer since then.

Impact on the Justice Sector

The office was equipped with furniture, electrical and electronic devices, a library with important references, a file cabinet, and other personal belongings.

I was at home when my father called me and told me that al-Jalaa Tower will be targeted. I thought that it was just a rumor because the tower included medical clinics, law firms (25), press offices, and engineering offices. There were no offices belonging to Palestinian factions or parties. I headed to the tower and found that all its residents and tenants evacuating the tower quickly. They told me that there is no time to take anything, but I insisted and went up to the office. I took my laptop, a sum of money and some files and documents and immediately got out of the tower.

Now, I have a serious problem that I lost important files that have only one copy, including bills of exchange and checks for my clients. It should be noted that courts in Gaza only deal with the original copy of these bills of exchange and checks. I may need several years to prove clients' debts and collect them. After my office was destroyed, I could not complete many legal files within the time set by the High Judicial Council, so I might have many problems with my clients, which may affect my work and future.

Now, I am losing my job, and I am still looking for an apartment to open a new office, knowing that obtaining another apartment in these circumstances is very difficult. I had two trainees who didn't complete their training at my office.

My losses at the office were estimated at \$60.000. I am not only lost furniture, files and important reference and books that I carefully selected during the ten years of my, but also my workplace which became known for my clients.

I think that I need 3 years at least to weather this ordeal and continue my work normally.

Recommendations:

All of the above shows the impact of Israeli offensive on justice sector in the Gaza Strip, which increased the suffering of Gaza population, especially in the light of the disruption of justice system during the Israeli offensive and destruction of some institutions in the justice sector, including law firms. A large number of law firms were destroyed and their contents, including important files and documents, were lost, causing a severe damage and serious suffering for clients and rights holders.

Thus, PCHR calls for:

1. Joint human rights efforts to prosecute Israeli war crimes against the Palestinians, especially targeting institutions in justice sector.
2. Reconstruction of the destroyed institutions in justice sector, compensation of lawyers and development of justice sector to provide best services for citizens.

PCHR calls upon:

3. The High Judicial Council to urgently compensate lawyers in order to continue their work.
4. The High Judicial Council to give special consideration to lawyers whose offices were destroyed with regard to the statute of limitations.
5. The High Judicial Council to formulate an emergency plan used when justice sector is disrupted, especially if the Israeli aggression on the Gaza Strip is repeated.
6. UN to support justice sector in Palestine in order to be able to fulfill its duties and alleviate the suffering of citizens, especially in light of the accumulation of cases resulting from Israeli offensive.