

# Investigating Themselves

Results of the military law enforcement system's examination of incidents of Palestinians killed and wounded in the Gaza Strip during "Operation Guardian of the Walls" (May 2021)



## **Yesh Din, Position Paper**

May 2022

---

**Research and writing:** Dan Owen

**Editing and assistance in writing:** Yonatan Kanonich and Ziv Stahl

**Legal counsel:** Michael Sfard

**English translation:** Leora Gal

**Yesh Din volunteers:** Dahlia Amit, Maya Bailey, Hanna Barag, Atty. Dr. Assnat Bartor, Osnat Ben-Shachar, Rochale Chayut, Dr. Yehudit Elkana, Rony Gilboa, Hana Gottlieb, Tami Gross, Dina Hecht, Niva Inbar, Daniel A. Kahn, Edna Kaldor, Ruth Kedar, Lilach Klein Dolev, Dr. Joel Klemes, Bentzi Laor, Judy Lots, Aryeh Magal, Sarah Marliss, Amir Pansky, Talia Pecker Berio, Nava Polak, Dr. Nura Resh, Eddie Saar, Idit Schlesinger, Ilana Meki Shapira, Dr. Tzvia Shapira, Dr. Hadas Shintel, Sara Toledano, Yoram Zeevi.

**Yesh Din staff:** Firas Alami, Yudit Avidor, Maysoon Badawi, Chanah Dulin, Shahd Fahoum, Mourad Jadallah, Moneer Kadus, Yonatan Kanonich, Lipi Komash, Georgie Nustas, Dan Owen, Atty. Fadia Qawasmi, Atty. Michael Sfard, Ziv Stahl, Atty. Shlomy Zachary, Atty. Michal Ziv, Atty. Lior Zur.

**Public council:** Atty. Abeer Baker, Hanna Barag, Dan Bavly, Prof. Naomi Chazan, Ruth Cheshin, Akiva Eldar, Prof. Rachel Elijor, Adv. Yehudit Karp, Dr. Roy Peled, Prof. Uzy Smilansky, Joshua Sobol, Yair Rotlevy.

---

**Cover: Explosion in Gaza City following an Israeli airstrike, May 3, 2021.**  
(Photo: Mohammed Zaanoun, ActiveStills)

Yesh Din is mostly funded by foreign governmental entities. A list of our donors is available on the Israeli Associations Register's website and on our website. Yesh Din is proud to be funded by states that believe, as we do, that the occupation is not an internal Israeli matter and that support the advancement of human rights.

## Summary of the data:

84 incidents in which Palestinians were killed and/or wounded were transferred to the “General Staff Mechanism for Fact Finding Assessments” (FFA Mechanism).

- **An investigation was opened into just one incident.**
- 25 incidents (approximately 30%) were closed without investigation after review by the FFA Mechanism.
- One year after the offensive against Gaza, 69% of all incidents transferred to the FFA Mechanism are still in the process of review:
  - > The FFA Mechanism has not concluded its “swift” review of 48 incidents (57%).
  - > 10 incidents are under review by the Military Advocate General Corps and pending a decision whether to close the investigation file or order an investigation be opened (12%).

## The killing doctrine

On May 10, 2021, the State of Israel launched an extensive military offensive in the Gaza Strip dubbed “Operation Guardian of the Walls”. For Israel, the impetus for this operation was rocket fire directed at Israeli cities by armed Palestinian organizations, which persisted until a ceasefire was declared by both parties at dawn on May 21. During those 11 days, Israel bombed hundreds of sites in the Gaza Strip from the air, land, and sea, damaging a great many sites including civilian infrastructure, neighborhoods and residential towers, schools, and hospitals.<sup>1</sup>

Approximately two million people live in the Gaza Strip, half of whom are under the age of 18, in an area of just 365 square kilometers. Data collected by several human rights organizations reflect the deadly consequences of Israeli military strikes in such a densely populated area. According to data collected by the Palestinian Centre for Human Rights (PCHR), Al Mezan Center for Human Rights and Al-Haq, between May 10 and May 21, 2021, 240 Palestinians were killed – including **151 civilians, of whom 59 were children (17 were children under the age of five), 38 women and 54 men** - during the Israeli offensive against the Gaza Strip. Airstrikes (attacks from manned or unmanned aircraft) resulted in the largest number of civilian casualties - 133 in total.<sup>2</sup>

1 OCHA, [Gaza Strip: Escalation of hostilities 10-21 May 2021](#), May 22, 2021. [Israeli Airstrike Damages Gaza Health Clinic](#), [The New York Times](#), May 18, 2021.

2 Al Mezan Center for Human Rights, The Palestinian Centre for Human Rights, Al-Haq, [Assault on Gaza in Numbers](#) (January 2022) (henceforth: **Assault on Gaza in Numbers**).

As in previous military offensives in the Gaza Strip and in spite of the remarkably lethal results, the Israeli army applied a doctrine of destruction and bombed densely populated areas, homes and residential buildings which then collapsed on their residents.<sup>3</sup> Comprehensive research conducted by the aforementioned human rights organizations shows that at least 122 people were killed while at home or in the vicinity of their homes.<sup>4</sup> In several separate instances, Israeli military strikes killed multiple family members.

On May 16, a series of Israeli airstrikes in the heart of a residential neighborhood in Gaza led to the collapse of three residential buildings, killing 44 civilians (18 of whom were children). The fatalities included 22 members of the al-Qawlaq family, 11 members of the Abu Elouf family, five members of the Ishkontana family, and four members of the al-Ifranji family.<sup>5</sup> Approximately two-thirds of those killed by Israeli bombings were civilians, demonstrating Israel's criminal disregard for the lives of Palestinian civilians.

The data published by human rights organizations also show that 1,968 people were wounded by the Israeli military offensive, 630 of whom were children (including 189 children under the age of five). In addition, 1,313 residential units were destroyed and 6,367 residential units were damaged by Israeli airstrikes, ultimately rendering 38,020 people homeless.<sup>6</sup>

B'Tselem and the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) documented similar numbers.<sup>7</sup> OCHA also reported that during the Israeli offensive in May, 2,173 homes and 10 hospitals were damaged,<sup>8</sup> exacerbating the already acute medical crisis in the Gaza Strip caused by Israel's prolonged blockade and the global COVID-19 pandemic.

---

3 For further reading: B'Tselem, [Black Flag: The Legal and Moral Implications of the Policy of Attacking Residential Buildings in the Gaza Strip, Summer 2014](#) (January 2015).

4 **Assault on Gaza in Numbers.**

5 Evan Hill, Christiaan Triebert, Ainara Tiefenthäler, John Ismay, Soliman Hijji, Phil Robibero, Drew Jordan, Yousur Al-Hlou, Christoph Koettl and Patrick Kingsley, [Gaza's Deadly Night: How Israeli Airstrikes Killed 44 People](#), **The New York Times**, June 24, 2021.

6 **Assault on Gaza in Numbers.**

7 B'tselem reported 232 Palestinian fatalities during "Operation Guardian of the Walls", 137 of whom were civilians - including 54 minors and 38 women. According to the United Nations Office for the Coordination of Humanitarian Affairs' data, 243 Palestinians were killed by Israeli airstrikes in May, at least 54 of whom were civilians and 64 children, and reported that the remaining 52 are disputable (combatants or civilians). It also reported that over 2,000 Palestinians were injured during the Israeli offensive – including 685 children and 480 women. For further information see B'Tselem, [Fatalities and House Demolitions Database](#). Last accessed May 13, 2022. OCHA, [Data on Casualties](#). Last accessed May 5, 2022.

8 OCHA, [The Humanitarian Bulletin - Gaza after the May escalation](#) (November 2021).

During the 11 days between May 10 and May 21, armed Palestinian groups, particularly Hamas and the Islamic Jihad, fired thousands of rockets at Israeli cities. According to data collected by OCHA, rocket fire resulted in the death of one soldier and 12 civilians in Israel, of whom two were children, and injured 710 civilians.<sup>9</sup>

The Israeli military offensive against Gaza should be viewed within a broader context: first, the context of the Israeli regime of occupation, in the framework of which the crime against humanity of apartheid is being carried out;<sup>10</sup> second, within the context of Israel's blockade on the Gaza Strip for the past 14 years, which has led to the grave humanitarian crisis in the Gaza Strip. Israel controls Gaza's airspace, territorial waters and land crossings, except for the Rafah Crossing and Salah al Din Gate, which are controlled by Egypt.<sup>11</sup> As part of its ongoing siege, Israel controls the population registry in the Gaza Strip, prevents persons from entering and exiting it by air and sea, and dominates the movement of commodities in and out of the Gaza Strip. Israel also controls the electricity supply, limiting it according to its own needs, as well as the movement of workers leaving the Gaza Strip to work in Israel, who are also at the mercy of Israel and subject to its decisions.<sup>12</sup>

Several particularly tense weeks preceded the round of violence that erupted in May. Settler organizations repeatedly attempted to take over Palestinians' houses in the East Jerusalem neighborhood of Sheikh Jarrah, and Israel increased its oppressive measures in the West Bank during that period, leading to an escalation and increased tensions between Palestinians and Israeli security forces. Tensions spiked when, following protests and rioting at the site, a large Israeli police force entered Al-Aqsa compound and mosque using a great deal of force, including firing tear gas and rubber bullets.<sup>13</sup>

Throughout the hostilities, many Palestinians throughout the West Bank protested Israel's offensive against Gaza. These protests were suppressed with the use of force and means such as stun grenades, tear gas, firing rubber-tipped steel bullets and even live ammunition. B'Tselem reported that Israeli security forces killed 13 protesters, two of whom were minors, while repressing the protests. It also reported that in several instances, soldiers fired live rounds at protesters without justification.<sup>14</sup>

---

9 OCHA, [The Humanitarian Bulletin - Gaza after the May escalation](#) (November 2021).

10 Yesh Din, [The Occupation of the West Bank and the Crime of Apartheid: Legal Opinion](#) (2020).

11 The crossings controlled by Egypt do not operate according to transparent procedures and oftentimes items Israel prohibits from bringing into the Gaza Strip are not allowed to be brought in from Egypt. For further reading: Gisha, [Gaza Up Close](#) (September 2021).

12 Gisha, [Gaza Up Close](#) (September 2021).

13 Images of Israeli security forces storming the Al-Aqsa Mosque were broadcast globally and used by Palestinian militants as a cause to launch a rocket attack at Israel. For further reading: Oliver Holmes, Peter Beaumont, "[Israeli police storm al-Aqsa mosque ahead of Jerusalem Day march](#)", **The Guardian**, May 10, 2021.

14 B'Tselem, [Lethal suppression: Soldiers kill three protesters in three demonstrations across West Bank](#) (July 2021).

## The Israeli offensive against Gaza – suspicion of war crimes

---

On May 12, International Criminal Court (ICC) Chief Prosecutor, Fatou Bensouda, announced that she was monitoring the incidents with concern and in consideration of the potential for the commission of war crimes.<sup>15</sup> Several human rights organizations, including B'Tselem and Human Rights Watch, concluded that the Israeli strikes on the Gaza Strip, including the Israeli bombing of densely populated areas and extensive civilian infrastructure, could amount to war crimes.<sup>16</sup> PCHR, Al Mezan and Al-Haq came to similar conclusions: that Israeli military attacks, which in many cases led to the killing of civilians and especially children, breached international humanitarian law and constitute a war crime.<sup>17</sup> Amnesty International called on the ICC to investigate Israel's attacks as suspected war crimes following a series of Israeli strikes directed at residences and densely populated neighborhoods.<sup>18</sup>

On May 27, the UN Human Rights Council approved establishing an independent international commission of inquiry to investigate breaches of international law in the occupied territories (the Gaza Strip and the West Bank, including East Jerusalem) and in Israel during the month of May. The commission announced that it would examine the underlying root causes for recurrent cycles of violence, as well as “systematic discrimination and repression based on national, ethnic, racial or religious identity”.<sup>19</sup> The State of Israel announced that it would not cooperate with such an investigation. The Foreign Ministry denied the commission chair's request to enter Israel and blamed Hamas for committing war crimes.<sup>20</sup>

Suspected breaches of international law by Israel in May 2021 are being examined in the context of the ICC's official investigation of Israel for suspected war crimes since 2014 and concerning several incidents during the Israeli military offensive against Gaza during the summer of 2014 (“Operation Protective Edge”), the weekly Great March of Return

---

15 Yonah Jeremy Bob, [ICC threatens new war crimes allegations against Israel, Hamas](#), **The Jerusalem Post**, May 12, 2021.

16 B'tselem, [Killing blockaded civilians and destroying infrastructure on a massive scale: Israel is committing war crimes in the Gaza Strip](#) (May 2021). Human Rights Watch, [Gaza: Apparent War Crimes During May Fighting](#) (July 2021).

17 **Assault on Gaza in Numbers**, page 33.

18 Amnesty International, [Israel/ OPT: Pattern of Israeli attacks on residential homes in Gaza must be investigated as war crimes](#) (May 17, 2021).

19 United Nations, Human Rights Council, [The United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and in Israel](#) (May 27, 2021).

20 United Nations, Human Rights Council, [The United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and in Israel](#) (May 27, 2021).

protests held on Fridays in the Gaza Strip by the border separating Israel and Gaza between March 2018 and December 2019, and Israel's establishment and expansion of settlements in the West Bank.<sup>21</sup>

International mechanisms and tribunals have jurisdiction to open an investigation and prosecute for commission of war crimes only in the absence of an effective domestic law enforcement system (investigation and prosecution) that conforms with international standards.<sup>22</sup> In the past decades, human rights organizations, including Yesh Din, have strongly criticized the Israeli military law enforcement system's handling of offenses committed by soldiers against Palestinians and its investigation of suspected war crimes. The organizations have concluded that, contrary to the impression the military law enforcement system seeks to convey, Israel is unwilling and/or unable to effectively investigate allegations of war crimes committed by its security forces personnel.<sup>23</sup>

Yesh Din's report to the UN Special Rapporteur in 2021 established that "The military law enforcement system endeavors to avoid investigating and prosecuting soldiers who harm Palestinians and, in so doing, fails to protect Palestinians against offenses committed by Israeli soldiers and commanders."<sup>24</sup> In July 2021, Human Rights Watch published the following: "The Israeli military and Palestinian authorities have a long track record of failing to investigate laws of war violations committed in or from Gaza."<sup>25</sup> Despite the popular opinion in Israel, Israeli soldiers have near full immunity from prosecution in cases of harm to Palestinians; just 0.7% of complaints that reached the MAG Corps in 2017-2018, and in which treatment was concluded, led to indictments (3 of 414),<sup>26</sup> and just 4.3% of all investigation files opened by the MPCID in 2013-2020 led to prosecution of soldiers who harmed Palestinians.<sup>27</sup>

21 [Statement of ICC Prosecutor, Fatou Bensouda, respecting an investigation of the Situation in Palestine](#), ICC Website, March 3, 2021.

22 [Rome Statute of the International Criminal Court](#), Article 17.

23 Yesh Din, [Killing Time: The slow processing of complaints regarding Gaza Great March of Return casualties and the use of the Fact-Finding Assessment Mechanism to thwart prosecution of soldiers](#) (September 2020) (henceforth: Yesh Din, **Killing Time**). Yesh Din, [Data sheet: Law enforcement against Israeli soldiers suspected of harming Palestinians, 2019-2020 summary](#) (March 2022) (henceforth: Yesh Din, **Law Enforcement 2019-2020**). B'Tselem and the Palestinian Centre for Human Rights, [Unwilling and Unable: Israel's Whitewashed Investigations of the Great March of Return Protests](#) (December 2021).

24 Yesh Din, [Report to the UN Special Rapporteur - The impact of Israeli settlements on the human rights of Palestinians](#) (June 2021), page 10.

25 Human Rights Watch, [Gaza: Apparent War Crimes During May Fighting](#) (July 2021).

26 Yesh Din, [Law enforcement on Israeli soldiers suspected of harming Palestinians and their property, summary of figures for 2017-2018](#) (November 2019).

27 Yesh Din, **Law Enforcement 2019-2020**.

## The military investigates itself – Israeli review and investigation procedures for Israeli strikes in Gaza during May 2021

---

Investigating incidents in which Palestinians were killed or wounded during the Israeli offensive in May 2021 is part of the larger framework of Israel's obligation as an occupying power to safeguard the protected population in the area subject to its control. Indeed, Israel has not had a permanent military presence in the Gaza Strip since it disengaged from the territory in 2005, but its command over the Gaza Strip remains a regime of occupation and its blockade on the Gaza Strip allows it to control many aspects of life there. The significance of this control – which includes, as stated, control over movement, commodities, electricity supply and full control over the Gaza Strip's airspace and territorial waters – is that Israel has obligations towards residents of the Gaza Strip under international humanitarian law, international human rights law and Israeli law – particularly administrative law.<sup>28</sup>

According to the policy determined by the Israeli army, the events of “Operation Guardian of the Walls” are governed by the rules of war – international humanitarian law. Therefore, incidents that took place in the Gaza Strip during the military offensive are examined in a different legal framework than routine complaints of suspected criminal offenses by soldiers.<sup>29</sup> Accordingly, these incidents were first forwarded to what the military terms “the General Staff Mechanism for Fact Finding Assessments”, or the FFA Mechanism.

The FFA Mechanism was established in the summer of 2014 (during the Israeli offensive in the Gaza Strip dubbed “Operation Protective Edge”) in order to perform a preliminary review of outstanding incidents that occurred during the fighting. The mechanism was established following several changes the Israeli military system undertook in efforts to implement the recommendations made by the Turkel Commission in order to counter criticism from the international community. The goal of this change was to portray the military law enforcement system as compliant with its duty to properly investigate allegations of war crimes and enforce the law.<sup>30</sup> Since the FFA Mechanism

---

28 For further reading see: Gisha, [Scale of Control: Israel's Continued Responsibility in the Gaza Strip](#) (November 2011).

29 Complaints and reports concerning harm, injury or death of Palestinians brought to the army's attention are usually examined by the MAG Corps, and it subsequently decides whether to order a criminal investigation into the incident or not. Yesh Din, [Law enforcement on Israeli soldiers suspected of harming Palestinians and their property, summary of figures for 2017-2018](#) (November 2019).

30 For further reading on the establishment and the work of the FFA Mechanism see: [The Public Committee to examine the Maritime Incident of May 31, 2010 - The Turkel Commission, Second Report: Israel's Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Laws of Armed Conflict According to International Law](#) (February 2013), page 378.

was established, it has been used as a means for preliminary assessment (before a complaint is either transferred for investigation or closed) of complaints and suspected breaches of the laws of war, and it is designed for reviewing large-scale incidents with numerous casualties. For example, incidents in which Palestinian protesters were killed during “Great March of Return” protests were initially assessed by the FFA Mechanism.<sup>31</sup>

It is important to note that the preliminary assessment performed by the FFA Mechanism is not a criminal investigation. Rather, it is a mechanism for carrying out a factual review “in a short timeframe, in order to conduct a swift and effective inquiry” prior to the Military Advocate General’s decision whether to order an investigation or not.<sup>32</sup> The materials collected by the FFA Mechanism remain confidential and cannot be used in a criminal investigation if one is subsequently ordered.<sup>33</sup>

In addition to conducting a preliminary assessment prior to an investigation, the FFA mechanism serves the army as a means for operational review.<sup>34</sup> The Mechanism’s dual role gives rise to a potentially grave conflict of interest between collecting data for determining legal responsibility and ordering an investigation against soldiers who allegedly committed offenses, and between collecting data to improve the military’s operational capacity. In addition, the preliminary factual assessment could harm a proper investigation because it requires time and delays the investigation insofar that it impedes evidence collection and enables soldiers to “rehearse” a version and could even be used by those involved in the inquiry to coordinate their testimonies.

It is noteworthy that the Military Advocate General (MAG), who ultimately decides whether to order an investigation into the incidents reviewed by the FFA Mechanism, could in many cases have an inherent conflict of interest regarding investigating incidents he was personally involved in. During the fighting, the Military Advocate General Corps (MAGC) provides legal counsel to the army; it was the MAGC that approved the legality of the orders that accompanied the Israeli offensive, specifically the destructive policy of bombing heavily populated areas. In cases where breaches of the laws of war are suspected during the military offensive in May 2021, the MAG will need to decide whether to order an investigation into incidents his subordinates at the MAGC or he himself played a role in, as well as into incidents that resulted from policy they helped formulate - such as the Israeli policy on bombardment. Such an investigation would require investigating

---

31 For further reading see: Yesh Din, **Killing Time**.

32 The MAG’s decision regarding exceptional incidents that took place during “Operation Protective Edge”, the MAG Corps website ([Hebrew](#)). Last accessed May 5, 2022.

33 Section 59A of the Military Justice Law determines that the review’s materials are confidential and will be forwarded only to military bodies that require the review to carry out their role. Section 539A (b)(2) explicitly says: “The review materials will not be provided to any investigative body”.

34 Yesh Din, **Killing Time**.

a wide range of individual duty-bearers, ranging from the political ranks to senior military ranks.

Incidents which give rise to suspicions of war crimes and unjustified harm to innocent persons must be investigated swiftly and effectively.<sup>35</sup> Human rights organizations, including Yesh Din, have found severe flaws in the military law enforcement system's work, specifically in the work of the "General Staff Mechanism for Fact Finding Assessments".<sup>36</sup> One of the most glaring flaws is the long **preliminary** review of the incidents - meaning that, in the face of suspicions of war crimes, the military law enforcement system's main priority remains buying time and creating an appearance of a functioning law enforcement mechanism.

## Data: Is Israel again evading effective and proper investigation of suspected war crimes?

The data presented in this section are based on the army's response to Yesh Din's FOI request submitted in April 2022. The data the army provided reflect the FFA mechanism's work and limited results with regards to incidents that took place in Gaza during the Israeli offensive in May 2021.<sup>37</sup> The army provided Yesh Din with incomplete data that does not enable qualitative learning about the mechanism's work. However, the data the army did provide suggests that the army is once again attempting to buy time and ultimately avoid investigating and prosecuting soldiers who harm Palestinians.

According to the army's data, **a total of 84 incidents were forwarded to the "General Staff Mechanism for Fact Finding Assessments"**.<sup>38</sup> Referring to these incidents, the army said that "each incident could include reference to several casualties (fatalities or wounded)". This differs from the FFA Mechanism's assessment of "The Great March of Return" protests in Gaza, which only reviewed incidents involving Palestinian fatalities. The FFA's review of incidents that took place during the Israeli offensive against Gaza by incident and not by casualty reflects the type of violence used during the military

35 ICRC, [Guidelines on investigating violations of IHL: Law, policy and good practice](#), September 16, 2019.

36 For further reading see: Yesh Din, **Killing Time**. B'Tselem, [Whitewash Protocol: The So-called Investigation of Operation Protective Edge](#) (September 2016).

37 IDF Spokesperson to Yesh Din, Response to request based on the Freedom of Information Act, April 26, 2022 ([Hebrew](#)) (henceforth: Response to FOIA request).

38 This is the breakdown by date provided by the army in the Response to FOIA request: three incidents on May 10, six incidents on May 11, 15 incidents on May 12, 13 incidents on May 13, 9 incidents on May 14, six incidents on May 15, six incidents on May 16, six incidents on May 17, four incidents on May 18, ten incidents on May 19, six incidents on May 20. Response to FOIA request.

campaign – bombardment that at times resulted in a large number of persons killed and wounded.

The criteria for transferring incidents to the FFA Mechanism’s review are unknown, but the army’s response demonstrates that the army does not review, not even preliminarily, all the incidents that led to harming civilians during the Israeli offensive against Gaza in May 2021. According to research conducted by Airwars, there are claims of harm to civilians in at least 130 strikes by the army in Gaza in May 2021. Based on analysis of local and official reports, Airwars found that militants were harmed in just 29 of these incidents, meaning that civilians were the sole casualties in 101 Israeli strikes in Gaza during the month of May 2021.<sup>39</sup>

According to the army’s data, of all the incidents transferred to the FFA Mechanism for review, **48 incidents are still in the preliminary stage** of review.<sup>40</sup> Thus, one year after the Israeli offensive, which led to widespread claims of breaches of the laws of war, the mechanism designed exclusively to perform a swift and preliminary assessment of the circumstances of the incidents **has not yet decided in 57% of the incidents brought to its review.**

According to the army’s response, as of March 2022 the FFA Mechanism completed its assessment procedure for just 36 incidents, 10 of which were transferred to the MAG for review and for which decisions were not yet made whether to order an investigation or not. **25 additional incidents (approximately 30%) were transferred to the FFA Mechanism for preliminary review and were closed without an investigation.**<sup>41</sup> One such incident, closed without an investigation, included the bombing of the home of journalist Yusef Abu Hussein (who worked for Hamas Radio Al-Aqsa). The army claimed the FFA Mechanism “found the strike was directed at a legitimate military target, approved by the authorized ranks and adhered to the principle of proportionality”.<sup>42</sup> This case is an example of the MAG’s conflict of interest described above: the MAGC had a hand in approving the policy that classified Abu-Hussein as a military target, provided clearance for the strike that killed him, or helped draft the criteria for proportionality when innocent civilians are harmed in an attack on a military target.

Nearly a year after “Operation Guardian of the Walls”, which left hundreds of civilians dead, thousands wounded, resulted in widespread destruction and suspicions of several war crimes, **the army ordered just one investigation opened** concerning a single incident during the Israeli offensive against the Gaza Strip.

39 Airwars, [Why did they bomb us? Urban civilian harm in Gaza, Syria and Israel from explosive weapons use](#) (December 2021).

40 Response to FOIA request.

41 Response to FOIA request.

42 Oren Persico, “A legitimate military target”, **The Seventh Eye**, May 11, 2021 ([Hebrew](#)).

The lengthy preliminary assessment proceedings regarding incidents that took place during “Operation Guardian of the Walls” do not conform with the review and investigation procedures the Ciechanover Report recommended in follow up to the Turkel Commission’s findings.<sup>43</sup> According to the Ciechanover Report’s recommendations, the FFA Mechanism should transfer its findings to the MAG within 30 days of starting its assessment. The Chief of Staff or deputy Chief of Staff may extend this timeframe in increments of no more than 45 days and provide a reason for the extension.<sup>44</sup> Regarding the MAG’s decision whether to order an investigation or not, the Ciechanover Report recommended that the decision whether to order an investigation be limited to 14 weeks, and a 14-week extension in exceptional cases.<sup>45</sup>

The data presented here, predominantly the fact that nearly 70% of all the incidents transferred to the FFA Mechanism are still being assessed, reviewed by the FFA Mechanism or awaiting a decision by the MAG, call into question Israel’s ability or willingness to effectively investigate allegations of breaches of the laws of war during “Operation Guardian of the Walls”.

## Summary

It has been one year since Israel launched a military offensive against the Gaza Strip, termed “Guardian of the Walls”, during which it bombed one of the most densely populated areas in the world for 11 days. As in its previous military campaigns in Gaza, the Israeli army applied a deliberate and destructive policy of attacking neighborhoods and residential buildings. Israel’s offensive cut short the lives of 151 civilians, a third of whom were children, and most of whom died in their homes which collapsed as a result of the bombings.

The offensive led to a wave of criticism against Israel and even to accusations of war crimes. According to the army’s investigation policy, suspected breaches of the laws of war were transferred to the “General Staff Mechanism for Fact Finding Assessments”, a body whose sole function is to perform a swift review of the facts before deciding whether to order an investigation. This mechanism is not part of a criminal investigation, and its work remains confidential.

---

43 The Ciechanover Team was established following publication of the Turkel Commission’s recommendations. For further information see: [Report of the Team for the Review and Implementation of the Second Report of the Public Commission for the Examination of the Maritime Incident of May 31st 2010 Regarding Israel’s Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Law of Armed Conflict According to International Law](#), August 2015 (henceforth: [Ciechanover Report](#)).

44 [Ciechanover Report](#), page 22.

45 [Ciechanover Report](#), page 25.

Of the hundreds of Israeli strikes carried out in May 2021 in the Gaza Strip, 84 incidents were transferred for review by the FFA Mechanism. The army's data show that nearly one year after Israel's offensive, **just one case was transferred for investigation**, which is still ongoing and the results of which are unknown. The FFA Mechanism concluded reviewing 35 additional incidents, most of which (25) were closed without an investigation.

Nearly one year after the Israeli offensive against Gaza, most of the incidents (57%) forwarded for review by the FFA Mechanism for a **swift factual assessment** before an investigation are still under review. It is impossible to know when review of all the incidents will be completed, including incidents transferred for review by the MAG Corps (12%). The military law enforcement system's protracted proceedings for suspected war crimes raise doubts regarding the military system's intentions and capacity to properly investigate itself.

Data published by Yesh Din and many other organizations have pointed to the military law enforcement system's incompetence, as its main role appears to be portraying the false impression of an effective law enforcement system in order to claim immunity from intervention by international legal apparatuses. The military system responds to suspicions of war crimes with deliberate lethargy; it refrains from investigating properly and effectively, avoids investigating decision and policy makers, and ultimately provides near immunity to commanders and soldiers who harm Palestinians.

The law enforcement system's work in cases of suspected war crimes during "Operation Guardian of the Walls" is further tainted by the fact that the MAGC, which is responsible for investigating these suspicions, approved the doctrines and the methods of warfare that led to operations suspected of amounting to war crimes.

The data presented in this document concerning "Operation Guardian of the Walls" adds to Yesh Din's previous reports and research on Israeli review and investigative mechanisms for suspected breaches of international law by members of its security forces. They underscore Yesh Din's conclusion that the Israeli law enforcement system is unable and/or unwilling to investigate suspected war crimes swiftly and effectively, primarily by failing to adhere to the standards of investigation required by international law. And so, the very same officials who formulated, approved, ordered and executed Israel's bombardment policy in the Gaza Strip have de-facto immunity.

Israel's lethal policy of attacking homes and residential buildings in the Gaza Strip, coupled with its military legal system's incapacity to investigate effectively, result in a dangerous reality in which residents of the besieged Gaza Strip lack any protection, their lives forsaken to military strikes and arbitrary harm. Effective and impartial investigation of suspected war crimes is critical for halting this state of affairs and ending the loss of human life that continues thanks to the culture of impunity and lack of accountability in Israel.