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FUELLING THE FIRE: CUTTING OFF GAZA'S ELECTRICITY AND FUEL

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FACT SHEET

"I do think there are other measures, beyond "dramatic" military steps that we can take. Gaza is dependent on Israel and on Israel's willingness to continue letting it lead a certain type of life."

- Tzipi Livni, Israeli Foreign Affairs Minister^[ii]

The Palestinian people of the Gaza Strip are suffering an unprecedented humanitarian crisis caused by Israel's occupation and severe economic sanctions. To add to this humanitarian crisis, the Government of Israel decided on the 19th of September 2007 to further punish the Palestinian civilian population of the Gaza Strip by disrupting and/or reducing their already limited supply of electricity and fuel, as a purported "response" to the firing of Qassam rockets.

Cutting off electricity and other essential services to the Palestinian civilian population would seriously violate international humanitarian law and pull the plug on the limited "life support" of electricity and fuel getting through to the civilian population. To reduce or shut off electricity and fuel would also amount to a fundamental breach of Israel's bilateral and contractual commitments.

I. The Facts on Gaza's Electricity and Fuel Needs

The Gaza Strip is supplied with electricity from three main sources:

1. The Israel Electricity Corporation provides 120 megawatts (MW) to the northern and central areas of the Gaza Strip;
2. The Gaza Power Plant ("GPP") provides 60 MW to the southern area of the Gaza Strip; and
3. Egypt provides 17 MW to the Rafah area.

There is currently a shortage of at least 40 MW, a shortage which stems from the Israeli bombing of the Gaza Power Plant in June 2006.

The Palestinian Energy Authority is managing the current shortage by implementing a rotational supply of electrical power to the different parts of the Gaza Strip.

In the event that Israel implements its decision to disrupt electricity and fuel to Gaza, the result will be a humanitarian catastrophe. Sixty (60) percent of the electrical supply to the

Gaza Strip is provided by Israel, and the electricity generated at the Gaza Power Plant relies on fuel supplied by Israeli companies.

Sadly, Gazans are already too familiar with such devastating effects: after last summer's bombing of the Gaza Power Plant, the Gaza Strip was left in darkness, with hospitals unable to care for patients, water pumps unable to provide drinking water, and lack of refrigeration to preserve sufficient food.

II. Breach of Israel's International, Bilateral and Contractual Commitments

The decision by Israel's cabinet to disrupt and/or reduce electricity and fuel to the Gaza Strip is not only an act of bad faith, but is part of a consistent trend that can only be described as a **flagrant breach of Israel's international, bilateral and contractual commitments**.

A. Breach of International Humanitarian Law

In spite of Israel's unilateral declaration of the Gaza Strip as a "hostile territory", Israel continues to occupy the Gaza Strip, as well as the West Bank. While Israel ended its colonization of the Gaza Strip two years ago with the evacuation of 8,500 illegal settlers (in what is known as the "Gaza disengagement"), Israel continues to bear the responsibilities of an occupying power under international humanitarian law ("IHL").

Palestinians living in the Gaza Strip, like those in the West Bank, continue to be subject to Israeli control. For example, Israel controls Gaza's air space, sea space and all border crossings, while Palestinians in Gaza require Israel's consent to travel to and from Gaza, to take their goods to Palestinian and foreign markets, to acquire food and medicine, and to access water and electricity. Without Israel's permission, the Palestinian Authority (PA) cannot perform such basic functions of government as providing social, health, security and utility services, developing the Palestinian economy and allocating resources.

Among Israel's most fundamental obligations as occupying power is to provide for the welfare of the Palestinian civilian population.ⁱⁱⁱ If it were to suspend or reduce provision of electricity, fuel or any other service, Israel would be in breach of this obligation.

In addition to Israel's obligation to provide electricity and fuel, a fundamental principle of IHL, as well as of the domestic laws of civilized nations, is that collective punishment against a civilian population is forbidden.ⁱⁱⁱⁱ Indeed, the very *raison d'être* of IHL is to shield the civilian population from the effects of armed conflict and occupation and from abuses by an enemy state/occupant. Cutting off or reducing electricity, fuel or other essential services from Gaza, whether to punish the Palestinian civilian population for the acts of a few or to intimidate Palestinian civilians in the hope that they will exert pressure on Palestinian militants to cease their resistance against Israel's occupation, violates this tenet of IHL.^{iv}

B. Breach of Bilateral Commitments

In October 2003, the Palestinian Energy Authority (“PEA”) and the Israel Electricity Corporation (“IEC”) signed an agreement wherein the first article provided the following commitment: “the supply of electricity and the maintenance and flow of the supply will continue to be outside of the Israeli-Palestinian conflict.” This commitment was reaffirmed on more than one occasion,^{vii} with the most recent commitment being made by Israel’s Minister of National Infrastructures Binyamin Ben-Eliezer in a joint press release with Chairman Omar Kittaneh of the PEA. The Minister reaffirmed Israel’s long-standing commitment to keeping electricity matters immune from the Israeli-Palestinian conflict by “working together on electricity matters in a cooperative way outside of the conflict.”

C. Breach of Contractual Commitments

The provision of services to the Gaza Strip is carried out through commercial contracts between Palestinian and Israeli companies.

Fuel is sold by Israeli companies to the Palestinians at market rates through negotiated commercial agreements with serious financial consequences for a breach of supply by Israeli companies. For example, one contractual obligation on Israel’s Dor Energy Ltd. requires the company to supply fuel products to the Gaza Strip or pay millions of dollars in penalties for its failure.

The Palestinians pay above market rates for electricity from the IEC, which has a monopoly on the delivery of electricity in Israel. In addition to paying above market rates for the supply of electricity to Gaza, the IEC is compensated through a secured payment scheme which guarantees the transfer of money through automatic deductions from Palestinian taxes that the Israeli Ministry of Finance collects (which is in addition to the taxes the Ministry charges the Palestinians on the price of fuel and electricity).

^{iv]} Israeli Ministry of Foreign Affairs website: <http://www.mfa.gov.il/MFA>.

^{ii]} Under Article 43 of the *Hague Regulations*, Israel is obligated to “take all the measures in [its] power” to ensure public order and civil life of the Palestinian civilian population. (*Hague Regulations, 1907 Hague Convention IV Respecting the Laws and Customs of War on Land*, 18 October 1907, U.K.T.S. 9 (1910)). Similarly, the authoritative commentary on the *Fourth Geneva Convention* provides that “[t]he rule that the Occupying Power is responsible for the provision of supplies for the population places that Power under a definite obligation to maintain at a reasonable level the material conditions under which the population of the occupied territory lives.” (Jean S. Pictet, ed., *Commentary on IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva: ICRC, 1958) at 309). The authoritative commentary on *Additional Protocol I* also definitively states that there is “a positive, complete requirement on the Occupying Power to use all means available to provide the supplies.” (*Commentary on 1977 Geneva Protocol I Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts*, para. 2783, online: ICRC <http://www.icrc.org/ihl.nsf/COM/470-750088?OpenDocument>.)

^{iii]} *Hague Regulations*, *supra* note 1, Art. 50; and *Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949*, 12 August 1949, 75 U.N.T.S. (1950) 287, Art. 33 [*Fourth Geneva Convention*].

^{iv]} Regrettably, this is not the first time that Israel has contemplated such illegal means of warfare. When an Israeli soldier was first captured by Palestinian militants in June 2006, Israeli Prime Minister Ehud Olmert himself confirmed the intent of similar plans to cut off the electricity by announcing that “[o]ur aim is not to mete out punishment but rather to apply pressure so that the abducted soldier will be freed. We want to create a new equation - freeing the abducted soldier in return for lessening the pressure on the Palestinians.” ([Amos Harel](#), Avi Issacharoff, [Aluf Benn](#) & Gideon Alon, “IDF launches first Gaza operation since 2005 withdrawal Olmert: Won't balk at 'extreme action' to rescue soldier” in *Ha'aretz* (28 June 2006).) In fact, the Israeli government has contemplated cutting off Gaza's electricity in order to pressure the civilian population since at least December 2005 (Jonathan Lis, Nir Hasson & Ze'ev Schiff, “Palestinian sources: Hamas man killed by IDF in Jenin raid” in *Ha'aretz* (21 December 2005), online: From Occupied Palestine <http://fromoccupiedpalestine.org/node.php?id=1593>).

^{v]} The “Joint Understanding on the Principles of the Electricity Agreement” was signed under the auspice of the European Commission by the IEC and the PEA. The same commitment was made between the PEA and Israel's Ministry of National Infrastructures on 30 October 2003 in the “Agreement on General Principles for Israeli-Palestinian Cooperation in the Sphere of Electricity”.