



LPHR statement urging ICC Prosecutor Karim Khan to reaffirm child policy commitment with over 3,600 Palestinian children killed or missing under the rubble in Gaza

26 October 2023

International Criminal Court Prosecutor Karim Khan has repeatedly affirmed his policy priority to effectively investigate and prosecute “[crimes against or affecting children](#)”. LPHR urges him to immediately do so in the devastating context of Israel's military bombardment of Gaza.

As of 18:00 hours on 25 October 2023, 19 days into the current escalation of hostilities, **at least [2,704 children](#) have been killed in Gaza. At least a further [900 children](#) are reported missing and are presumed to be trapped or dead under the rubble**, awaiting rescue or recovery.

A substantial proportion of children killed, missing or maimed will have been sheltering inside their home at the time they were attacked. However, Israel will continue to confidently claim, as it did following the 2014 hostilities in Gaza which killed 556 children over 51 days, that it is acting entirely within the rules of international humanitarian law (IHL) when implementing its extremely controversial military policy to target family homes on a deliberate and widespread basis.

Israel will assert it only directs strikes at military targets; that it assessed each attack as being proportionate (expected incidental civilian harm will not be excessive in relation to definite military advantage) and that it took all feasible precautions to avoid or minimise civilian harm.

LPHR strongly submits that these claims must be subjected to forensic independent scrutiny by ICC Prosecutor Karim Khan - and his team within the Office of the Prosecutor - in full alignment with his prosecutorial policy to prioritise crimes against or affecting children.

Of the total number of [homes destroyed \(16,441\)](#) or rendered uninhabitable (11,340) since 7 October, resulting in the killing and maiming of hundreds of families ([149 Palestinian families have lost ten or more of their members](#), 123 Palestinian families have lost 6 to 9 members, and 416 families have lost two to five of their members), it can be confidently assumed that a sizeable number would have been deliberately targeted, based on the controversial Israeli military policy executed on a widespread basis during the 2014 hostilities. It can also be safely assumed that many homes adjacent to the targeted home would have sustained significant damage and civilian harm.

Israel's general legal justification for its policy permitting deliberate and widespread military targeting of family homes, is that a home can be lawfully targeted on the basis of operating as a 'command and control centre'. However, as highlighted by the [UN independent Commission of Inquiry](#), and by [LPHR](#), this basic assertion has not been further elaborated upon to allow for an accurate legal assessment as to whether the civilian status of a home under IHL was reasonably overturned in each targeting incident.

LPHR remain deeply concerned that Israel has applied, and is continuing to apply, a novel and manifestly unreasonable interpretation of international humanitarian law which permits its military forces to destroy family homes – that should have protected civilian status - on a systematic and



widespread basis. The direct consequence is thousands of Palestinian children killed, missing or maimed since 7 October.

Even if the presumed civilian status of a family home were in a specific case to have reasonably transformed into a legitimate military target, LPHR has significant questions as to whether the proportionality assessment and precautionary measures used by Israeli military commanders when authorising airstrikes against family homes are reasonable and in compliance with IHL at all times.

LPHR has long been deeply concerned that the proportionality assessment undertaken by Israeli military commanders when authorising targeting airstrikes against family homes during the 2014 hostilities in Gaza was not [not reasonable](#) either on a systemic basis or in relation to specific incidents. We have strongly feared that the same patently unreasonable approach - in serious violation of IHL and international criminal law - will be systemically applied during any future escalation [if there is no legal accountability](#).

Our worst expectations are now being horrifically realised day after day during the current hostilities, with no end in sight. Thousands more children in Gaza will foreseeably be killed or maimed in the short-term without a ceasefire or major revision of Israel's military policy. LPHR is unequivocal in reiterating our call for an immediate ceasefire.

Each relevant actor should seek to prevent, mitigate against and/or deter thousands more children being killed and maimed as a direct consequence of Israel's military targeting policy. LPHR accordingly urges ICC Prosecutor Karim Khan to repeat the precedent he set in the early days of the Russian invasion of Ukraine, and publicly affirm that his key priority to "[pursue crimes](#)" where children are harmed will be imperatively applied to the situation in Gaza.