

LETTERS TO THE SECURITY COUNCIL BY TWO PRISONERS OF WAR, ISRAEL AND PALESTINE (I)

BY DR ALBERTO ALVAREZ-JIMENEZ*

Yarom was the name of a student from Israel whom the present author had at the University of Ottawa. His roommate in the distant Canadian capital was a Palestinian, and while the Israeli flag hung on one side of the wall that separated the two rooms, the Palestinian flag was affixed to the other. Yarom mentioned that he and the Palestinian student got along well. Their story is short but rich in humanity. At almost the same time, Israel and Palestine were running their separate stories before the United Nations (UN) Security Council. These two narratives, on the contrary, were long and monotonous in their brutality.

Israel and Palestine are among the most frequent letter-writers to the UN Security Council. They do so in order to report, often on a weekly basis, on the scale of suffering their civilians endure. This article deals with almost 50 communications forwarded from August 2013 to July 2014 – the 65th and 66th years of the conflict.¹ It shows the concern that each state has expressed for the other's civilians: none.²

A fundamental legal question emerges from these accounts: how to reinterpret international humanitarian law, human rights law, or international criminal law in a way that alters adversaries' calculations and makes each other's civilian tragedy visible to them in this armed struggle or in any other in which the parties are behaving likewise? Answering this question should concern scholars in these domains after decades of their development aimed at protecting the dignity of humankind. These bodies of law properly interpreted or reinterpreted in isolation or in conjunction should offer not one but several answers to this single question. This is the undertaking that the narrative below should prompt.

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1 Sarah Thomson painstakingly read and ably summarised the letters. Her research assistance was always timely and outstanding. Tomer Broude and two anonymous reviewers offered important suggestions and much needed criticism. The author thanks all of them and assumes total responsibility. The financial support of Te Piringa – Faculty of Law made this project possible. Finally, the present author is grateful to Linda Te Aho, editor of the Waikato Law Review, for accepting this article for publication.

It is dedicated to Eliana, Leticia, Aluna, and Alberto Sr, and to Concha (in memoriam).

The length of the Israeli-Palestinian conflict is not easy to establish. Although the narrator in Tolstoy's *War and Peace* states that there "can be no *beginning* to any event, for one event always flows uninterruptedly from another," the creation of Israel in 1948 is undeniably a crucial date, and the one chosen here. (Leo Tolstoy *War and Peace* (1869) at book 11, ch 1.)

2 This article does not claim, for instance, that all segments of Israeli society are indifferent to the Palestinian suffering. This is not certainly the case. For an example of concerns for such ordeal, see "B'Tselem Petitions Israel's High Court to Oblige Israel Broadcasting Authority to Broadcast Names of Gazan Children Killed" (29 July 2014) The Israeli Information Center for Human Rights in the Occupied Territories <www.btselem.org>.

It can be claimed that there is no reason to attempt to make Israeli and Palestinian civilians' suffering visible to the other party, because such suffering is already quite visible or will be so in the future. The list of arguments of this character is long: ample media coverage, UN frequent condemnation of Israel's actions and policies, a peace process that at the end will address civilian suffering on both sides, and the ongoing International Criminal Court Prosecutor's preliminary investigation.³ No doubt Israeli and Palestinian suffering does not go ignored all the time. However, the fact is that it has been so in the letters forwarded to the Security Council by both Israel and Palestine. Any effort to alter this state of affairs for the benefit of civilians on both sides is not superfluous, and neither are attempts to draw on this long conflict to suggest other ways to interpret international humanitarian law, international human rights law, and international criminal law in protracted conflicts.

There is another argument of a more general application: making civilian suffering visible is inconvenient because it galvanises the conflict instead of humanising it. Talion law is, to be sure, a reality and a fundamental explanation for the protracted nature of the given conflict too. The whole body of international humanitarian law is aimed at preventing or mitigating this reaction, which offers little comfort to many victims.

This article has two parts. The first is the chronicle of the Israeli and Palestinian conflict over the period August 2013–July 2014. Combining art, literature, music and photography, part I's purpose is to make readers feel, not just be aware of, the civilian suffering that is going ignored, so that they see the urgency of novel legal analyses. There is also a word of warning: part I is not pleasant, and out of respect to those Israeli and Palestinian civilians affected, the present author has made a very limited attempt to make the readability of the text smooth. Further, the text is to be read while listening to some pieces of music that relate to it. They are included not for entertainment purposes but just to give a slight idea of the human sorrow the letters portray.

The second part is an open conclusion and a proposal for future collective research. There is a reason for the open format. No legal analysis can match the complexity of the text below summarising the letters, its multiple legal dimensions, and the magnitude of the Israeli and Palestinian silences. It is then important to separate the narrative and the urgent questions it raises from the present author's suggested answers. Thus, controversies on their merits do not affect the significance of the narrative and of its traumatic supporting reality. Another article in this volume by the current author explores new ways in which international humanitarian law and international criminal law could be interpreted in order to make civilian ordeal visible to the opponent, be it Palestine or Israel or any other state acting likewise.⁴ In this sense, the two articles cannot be seen as disconnected. This piece offers the human context for the next one containing a strict legal analysis.⁵

3 "Preliminary Examination: Palestine" International Criminal Court <www.icc-cpi.int/palestine>.

4 See: Alberto Alvarez-Jimenez "Protracted Armed Conflicts, Invisible Civilian Suffering and International Law" (2018) 26 *Wai L Rev* 77.

5 The text below could not just be an appendix with a list of casualties. Such structure does not create "emotional knowledge", to draw on the notion that a contemporary artist uses to refer to her work. This kind of knowledge is the purpose of the narrative in part I next. See Randy Kennedy "Tania Bruguera, an Artist in Havana, Has a Great New York Week" *The New York Times* (online ed, New York, 13 July 2015).

Iannis Xenakis “Metastasis”
or
 György Ligeti “Lux Aeterna”⁶

I. THE PALESTINIAN AND ISRAELI LETTERS TO THE SECURITY COUNCIL DURING THE 65TH AND 66TH YEARS OF THE CONFLICT⁷

Israel informed the multilateral organ on 13 August 2013 that Palestinian terror attacks had grown by 50 per cent between 2011 and 2012, and that in 2012 Israelis had been the targets of 2,736 shootings, rockets, improvised explosive devices and other terror attacks.⁸ The Council, on 23 August, was advised by Palestine that 22-year-old Majd Lahlouh had been killed when a Palestinian refugee camp was raided by Israeli forces. Shootings carried out by them had resulted in the final day of Hussein Abdul-Hadi Awadallah, age 30.⁹ Three days later, Palestine let the UN body know that Robeen Zayed, age 34; Yunis Jameel Jahjouh, age 22; and Jihad Aslan, age 20, all civilians, had died in a raid on a refugee camp.¹⁰ On 20 September 2013, Palestine notified the Council; that Kareem Sobhi Abu Sbeih, age 17, had departed in perpetuity from wounds suffered in an earlier raid; and that three women had been injured in a raid on Al-Aqsa Mosque.¹¹

Israel brought to the international organ’s attention, on 9 October, the fact that a rocket fired from central Gaza had exploded inside Israel. A new school year had started, and Israeli parents

6 The author thanks Martin Lodge of the School of Arts of the University of Waikato, for his musical advice. Both pieces are readily available online.

7 The text in this part has been inspired by Vernon Ah Kee’s work of art, “austracism” (2003) National Gallery of Australia, Canberra <<https://cs.nga.gov.au>>.

There is an imbalance in the description of the letters, due to the letters themselves. Israel writes to the Council less frequently than Palestine, and the former’s communications are shorter than the latter’s.

Finally, death is widespread in the narrative below, and different expressions are used throughout it to ease the reading. They have been taken from literature, and their authors, Miguel de Cervantes, Gabriel Garcia Marquez, Toni Morrison, James Joyce, Jorge Luis Borges, Orhan Pamuk, Philip Roth and Primo Levi, among others, are not explicitly mentioned. Many are immortal and do not need further recognition in a footnote here.

8 Letter from the Permanent Representative of Israel to the President of the Security Council “Regarding Letter Dated 13 August 2013 from the Permanent Representative of Israel to the United Nations Addressed to the President of the Security Council – S/2013/484” (13 August 2013).

9 Letter from the Permanent Observer Mission of the State of Palestine to the Secretary-General and others “Identical Letters Dated 23 August 2013 from the Permanent Observer Mission of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/601 – S/2013/505” (23 August 2013).

10 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others “Identical Letters Dated 26 August 2013 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/602–S/2013/509” (26 August 2013).

11 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others “Identical Letters Dated 20 September 2013 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/603–S/2013/567” (20 September 2013).

had worried for the safety of their children.¹² The UN body was notified at the end of October that two rockets had been fired from Gaza, targeting the towns and cities of southern Israel.¹³ Subsequently, on 13 November, Israel wrote to the Council after a nine-year-old Israeli girl had been stabbed by Palestinian terrorists while playing in her yard and four Israeli civilians had been injured in a stabbing attack.¹⁴

On 10 December 2013, Palestine reported to the multilateral organ that Wajih Wajdi Al-Ramahi, age 14, had been shot dead by an Israeli sniper.¹⁵ The next day, the international body received a new letter from Palestine: an attack on a refugee camp had resulted in the death of Nafei Al-Saadi, age 22.¹⁶ The Council was informed by Palestine on 24 December 2013, that Israeli military strikes and artillery bombardments on the Gaza Strip had caused the eternal departure of Odeh Hamad, age 27, and Hala Abu Sbeikha, age three, and injured her mother and two brothers, Bilal, age four, and Mohamed, age six.¹⁷ Two days later, Israel replied to tell the UN organ that a bomb that exploded on a civilian bus had injured one Israeli and that 22-year-old Saleh Abu Latif, had been killed by a Palestinian sniper.¹⁸

Getting killed was easy, but that understanding was hard.

AB Yehoshua *Mr Mani*

On 14 January 2014, the 66th year of the conflict, Israel informed the multilateral body that, as Israelis and foreign dignitaries had gathered to pay tribute to former Prime Minister Ariel Sharon,

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- 12 Letter from the Permanent Representative of Israel to the Secretary-General and the President of the Security Council “Identical Letters Dated 9 October 2013 from the Permanent Representative of Israel to the United Nations Addressed to the Secretary-General and the President of the Security Council – S/2013/600” (9 October 2013).
 - 13 Letter from the Permanent Representative of Israel to the Secretary-General and the President of the Security Council “Identical Letters Dated 28 October 2013 from the Permanent Representative of Israel to the United Nations Addressed to the Secretary-General and the President of the Security Council – S/2013/632” (28 October 2013).
 - 14 Letter from the Permanent Representative of Israel to the Secretary-General and the President of the Security Council “Identical Letters Dated 13 November 2013 from the Permanent Representative of Israel to the United Nations Addressed to the Secretary-General and the President of the Security Council – S/2013/665” (13 November 2013).
 - 15 Letter from the Permanent Observer Mission of the State of Palestine to the United Nations to the Secretary-General and others “Identical Letters Dated 10 December 2013 from the Permanent Observer Mission of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/608–S/2013/729” (10 December 2013).
 - 16 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others “Identical Letters Dated 19 December 2013 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/609–S/2013/752” (19 December 2013).
 - 17 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others “Identical Letters Dated 24 December 2013 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/610–S/2013/767” (24 December 2013).
 - 18 Letter from the Permanent Representative of Israel to the United Nations to the Secretary-General and the President of the Security Council “Identical Letters Dated 26 December 2013 from the Permanent Representative of Israel to the United Nations Addressed to the Secretary-General and the President of the Security Council – S/2013/771” (26 December 2013).

rockets had fallen a short distance from the funeral service.¹⁹ Two days later, the Council got a new letter: Israel told the UN body that a barrage of rockets had been fired towards 113,000 citizens of the southern Israeli city of Ashkelon and that it was practicing self-restraint.²⁰

Palestine advised the UN organ on 6 February that five people had been injured in a shooting in northern Gaza and that Israeli airstrikes injured another 11 Palestinians.²¹ On 18 February, Israel reported to the international body that, since 31 January 2014, eight rockets had been fired from the Gaza Strip towards the towns and cities of southern Israel and that it was practicing self-restraint.²² Palestine answered back 48 hours later, letting the Council know that Palestinian civilian Ibrahim Suleiman Mansour, age 26, had been killed by Israeli forces while out collecting gravel to sell.²³ The organ received another missive on 25 February: Israeli forces had stormed the holy Al-Aqsa Mosque, attacking and injuring Palestinian worshippers with rubber-coated steel bullets and tear gas canisters.²⁴ Early in March, Palestine informed the Council that a 57-year-old Palestinian woman, Amneh Qudeih, had been shot dead near Gaza's "security buffer zone."²⁵

On 12 March 2014, Palestine notified the UN body that the lives of 38-year-old Ra'ed Alaa'eddin Zuaiteer and 18-year-old Saji Sayel Darwish had been taken by Israeli occupying forces.²⁶ A week later, the Council was again briefed: Yousef Nayif Al Shawamreh, age 14, had been shot and killed

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- 19 Letter from the Permanent Representative of Israel to the United Nations to the Secretary-General and the President of the Security Council "Identical Letters Dated 14 January 2014 from the Permanent Representative of Israel to the United Nations Addressed to the Secretary-General and the President of the Security Council – S/2014/23" (14 January 2014).
- 20 Letter from the Permanent Representative of Israel to the United Nations to the Secretary-General and the President of the Security Council "Identical Letters Dated 16 January 2014 from the Permanent Representative of Israel to the United Nations Addressed to the Secretary-General and the President of the Security Council – S/2014/28" (16 January 2014).
- 21 Letter from Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 6 February 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council A/ES-10/615-S/2014/82" (6 February 2014).
- 22 Letter from the Permanent Representative of Israel to the United Nations to the Secretary-General and the President of the Security Council "Identical Letters Dated 18 February 2014 from the Permanent Representative of Israel to the United Nations Addressed to the Secretary-General and the President of the Security Council – S/2014/107" (18 February 2014).
- 23 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 20 February 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/616-S/2014/118" (20 February 2014).
- 24 Letter from the Chargé d'affaires a.i. of the Permanent Observer Mission of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 25 February 2014 from the Chargé d'affaires a.i. of the Permanent Observer Mission of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/617-S/2014/128" (25 February 2014).
- 25 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 5 March 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/619-S/2014/154" (5 March 2014).
- 26 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 12 March 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/620-S/2014/180" (12 March 2014).

by Israeli occupying forces;²⁷ and once more, on 24 March of the same year: Hamza Abu Al-Haija, age 22; Mahmoud Abu Zeina, age 17; and Yazan Jabarin, age 22, had perished in a raid on a refugee camp carried out by Israeli forces.²⁸

Any kiddie in school can love like a fool,
But hating, my boy, is an art.

Ogden Nash “A Plea for Less Malice Toward None”

On 16 April 2014, Palestine notified the international organ that Haram al-Sharif, which houses the holy Al-Aqsa Mosque and Qubbat Al-Sakhra, had been raided by over 1,000 occupying forces backed by Israeli border police. At least 25 Palestinians were injured.²⁹ Seven days had passed and a new letter to the Council arrived, reporting to it that Israeli forces had stormed the Al-Aqsa Mosque compound and attacked Palestinian worshippers.³⁰ On 25 April, Israel replied and informed the multilateral body that, since 13 April 2014, eight rockets had been fired from the Gaza Strip, directed at civilian areas in the towns and cities of southern Israel, and that it was restraining itself in its response.³¹

On 15 May 2014, Palestine told the UN organ that two Palestinians, Muhammed Odeh Abu Al-Thahir, age 15, and Nadim Siyam Nuwarah, age 17, partaking in demonstrations, had started their journey into the unknown as a result of Israeli military action.³² At the end of the month, the Council was informed that a 68-year-old Palestinian man had been severely beaten in a clash

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- 27 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others “Identical Letters Dated 20 March 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/621–S/2014/205” (20 March 2014).
- 28 Letter from the Chargé d’affaires a.i. of the Permanent Observer Mission of the State of Palestine to the United Nations to the Secretary-General and others “Identical Letters Dated 24 March 2014 from the Chargé d’affaires a.i. of the Permanent Observer Mission of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/622–S/2014/214” (24 March 2014).
- 29 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others “Identical Letters Dated 16 April 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/624–S/2014/280” (16 April 2014).
- 30 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and the President of the Security Council “Identical Letters Dated 21 April 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General and the President of the Security Council – A/ES-10/625–S/2014/289” (21 April 2014).
- 31 Letter from the Permanent Representative of Israel to the United Nations to the Secretary-General and the President of the Security Council “Identical Letters Dated 25 April 2014 from the Permanent Representative of Israel to the United Nations Addressed to the Secretary-General and the President of the Security Council – S/2014/301” (25 April 2014).
- 32 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and the President of the Security Council “Identical Letters Dated 15 May 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/628–S/2014/347” (15 May 2014).

between Palestinian worshippers and Israeli border police.³³ Israel responded on 2 June. It drew to the multilateral body's attention that, over the past four weeks, four separate rocket attacks had been launched at Israel from the Hamas-controlled Gaza Strip. Israel also announced that it was practicing self-restraint.³⁴

On 17 June 2014, Israel informed the international organ that three Israeli boys – Gilad Sha'er, age 16; Naftali Frenkel, age 16; and Eyal Yifrah, age 19 – had been kidnapped by Hamas terrorists and had been missing for five days.³⁵ A Palestinian reply reached the Council on the very same day: Ahmad Al-Sabarin, 20 years old, had been killed during an Israeli military raid on the Al-Jalazun refugee camp.³⁶ Palestine advised the UN body a few days later that Palestinian civilians Mustafa Hosni Aslan, age 22, and Mahmoud Jihad Muhammad Dudeen, 14 years old, had died as a result of an Israeli military operation.³⁷ On 30 June 2014, Israel let the Council know that the three Israeli teenagers kidnapped by Hamas had been found dead after an 18-day search, and that, since 2 June, more than 70 rockets had been fired from Gaza into Israel.³⁸ On the same day, Palestine answered back and reported that Israeli tanks had bombarded the town of Al Qarara: as a result, Mohammed Zayed Obeid had had his last hour in this world. Other casualties included Sakhr Burhan Daraghmeh, age 18, who saw his life prematurely ended while tending his sheep; Mohammed Mahmoud al-Toraifi, age 30; and Ahmed Sa'eed Khaled, age 27.³⁹

Day and night he thinks, why Kenny, why Chip, why Buddy, why them and not me?
Sometimes he thinks they're the lucky ones. It's over for them.

Philip Roth *The Human Stain*

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- 33 Letter from the Chargé d'affaires a.i. of the Permanent Observer Mission of the State of Palestine to the United Nations and the Secretary-General "Identical Letters Dated 29 May 2014 from the Chargé d'affaires a.i. of the Permanent Observer Mission of the State of Palestine to the United Nations Addressed to the Secretary-General and the President of the Security Council – A/ES-10/629–S/2014/381" (29 May 2014).
- 34 Letter from the Permanent Representative of Israel to the United Nations to the Secretary-General and the President of the Security Council "Identical Letters Dated 2 June 2014 from the Permanent Representative of Israel to the United Nations Addressed to the Secretary-General and the President of the Security Council – S/2014/385" (2 June 2014).
- 35 Letter from the Permanent Representative of Israel to the United Nations to the Secretary-General and the President of the Security Council "Identical Letters Dated 17 June 2014 from the Permanent Representative of Israel to the United Nations Addressed to the Secretary-General and the President of the Security Council – S/2014/416" (17 June 2014).
- 36 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 17 June 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/631–S/2014/418" (17 June 2014).
- 37 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 20 June 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/632–S/2014/429" (20 June 2014).
- 38 Letter from the Permanent Representative of Israel to the United Nations to the Secretary-General and the President of the Security Council "Identical Letters Dated 30 June 2014 from the Permanent Representative of Israel to the United Nations Addressed to the Secretary-General and the President of the Security Council – S/2014/454" (30 June 2014).
- 39 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 30 June 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/633–S/2014/455" (30 June 2014).

On 3 July 2014, the Council was informed by Palestine that 20-year-old Yousef Ibrahim Ahmed Ibn Gharra had been shot by Israel and had departed this world forever while returning to his home in the Jenin refugee camp.⁴⁰ Palestine wrote again four days later to report that, over the last three weeks, military assaults had led to the taking of life of at least 25 Palestinians and the wounding of at least 250 civilians. Recent information revealed that 16-year-old Mohammed Abu Khdeir was burnt alive. Fifteen-year-old Tariq Abu Khdeir, cousin to Mohammed, had also been brutally beaten.⁴¹ Israel responded advising the international organ that rockets continued to fall relentlessly on major Israeli cities and that Israelis would spend the night sleeping in bomb shelters.⁴² On 8 July 2014, Palestine replied: Israeli occupying forces had launched more than 150 military airstrikes on the previous day: Mohammed Habib and his son Mousa, age 19; Fakri Saleh Ajjouri; Abdullah Kaware; Mohammad Ashour, age 13; Riyad Kaware; Mahmoud Judeh; Bakir Mahmoud Judeh, age 22; Ammar Mohammad Judeh, age 22; and Hussein Mohammad Kaware, age 14, had succumbed there.⁴³

On 9 July 2014, Palestine reported to the Council the names of more Palestinians who had been infected by the presence of death during Israeli airstrikes: Abdel Nasser Abu Kwaik, age 60, and his son Khaled Abu Kwaik, age 29; Nayfa Farajallah; Abdel Hadi Al-Soufi, age 24; Hatem Mohammed Abu Salem, age 25; a baby girl, Raneem Abdel Ghafour, age one; Mohammed Malakeh, age two, and his mother, Hanaa' Malakeh, as well as Hatim Abu Salim; Saher Hamdan, age 40, and her son Ibrahim, age 14; a mother from the Al-Nawasreh family and her two children; several members of a family, including Ibrahim Mohammed Hamad, age 26; Mahdi Mohammed Hamad, age 46; Fawzia Khalil Hamad, age 62; Mehdi Hamad, age 16; Suha Hamad, age 25; Hani Saleh Hamad, in his sixties, and his son Ibrahim, in his twenties; an elderly woman, Salmiyya Al-Arja, and a child, Miryam Al-Arja.⁴⁴

On 11 July 2014, Palestine advised the UN organ that, since Monday, 7 July, Israeli air strikes had sent more than 100 Palestinians to the bottom of nothingness, among them: Salem Qandeel, Amer Al-Fayouni and Bahaa Abu Elail; Mahmoud Al-Haj, Tariq Saad Al-Haj, Saad Mahmoud Al-Haj, Omar Al-Haj, Najla Mahmoud Al-Haj and Amina Al-Haj – all from the same family; Raed Shalat, age 30, whose wife and their three children were injured; Ibrahim Khalil Qanan, age 24, and

40 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 3 July 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/635–S/2014/471" (3 July 2014).

41 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 7 July 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/636–S/2014/473" (7 July 2014).

42 Letter from the Permanent Representative of Israel to the United Nations to the Secretary-General and the President of the Security Council "Identical Letters Dated 7 July 2014 from the Permanent Representative of Israel to the United Nations Addressed to the Secretary-General and the President of the Security Council – S/2014/474" (7 July 2014).

43 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 8 July 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/637–S/2014/479" (8 July 2014).

44 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 9 July 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/638–S/2014/483" (9 July 2014).

his brother Mohammed Khalil Qanan, age 25; Ibrahim Swali, age 33, and his brother Mohammed Swali, age 28; Salem Al-Astal, age 55; Mohammed Al-Ackad, age 24; Abdullah Abu Ghazl, age four; Hussein Abu Jamei, age 57, and his son Ismail, age 19; Mohammed Ihsan Farawneh, age 19; Mahmoud Wloud, Hazem Baalousha and Alaa Abdel Nabi; Yasmeeen Al-Mutaweq, age four; Ahmed Zaher Hamdan, age 22; Mohammed Al-Kahlout; Sami Adnan Shildan, age 25; Shahd Helmi Al-Qarnawi, age five; Abdel Halim Ashra, age 54; Abdallah Abu Mahrouq; Anas Rizq Abu Al-Kas, age 30; Adnan Salem Al-Ashhab, age 40; Mazen Aslan and Shahraman Abu Al-Kas; Mohammed Rabii Abu Hmaidan, age 65; Wisam Abdel Razeq Ghannam, age 23; Mahmoud Abdel Razeq Ghannam; Kifah Shehada, age 20; Ghalia Deeb Ghannam, age seven; Mohammed Mounir Ashour, age 25; Nour Marwan Al-Najdi, age 10; Saber Sukkar, age 80; and Hussein Mohammed Al-Mamlouk, age 47.⁴⁵

As I left the house behind, I left my childhood behind too. I realized that our life had ceased to be pleasant ... Things had reached the point where the only solution was a bullet in the head of each of us.

Ghassan Kanafani (Palestinian writer) *Men in the Sun*

On 14 July 2014, Palestine brought to the Council's attention that, on the previous day, 18 members of the Al-Batsch family had been killed in an Israeli airstrike. Those who died were:

Nahed Nai'im Al-Batsch, age 41; Bahaa Majed Al-Batsch, age 28; Qusai Issam Al-Batsch, age 12; Mohammed Issam Al-Batsch, age 17; Ahmed Nu'man Al-Batsch, age 27; Yehya Ala Al-Batsch, age 18; Jalal Majed Al-Batsch, age 26; Mahmoud Majed Al-Batsch, age 22; Marwa Majed Al-Batsch, age 25; Majed Subhi Al-Batsch; Khaled Majed Al-Batsh, age 20; Ibrahim Majed Al-Batsch, age 18; Manar Majed Al-Batsch, age 13; Amal Hasan Al-Batsch, age 49; Anas Alaa Al-Batsch, age 10; Qusai Alaa Al-Batsch, age 20; Zakariya Alaa Al-Batsch and Aziza Youssef Al-Batsch, age 59. The Palestinian note also mentioned that, on 12 July 2014, an Israeli airstrike had killed, Ola Washahi, age 31; Suha Abu Saada, age 47; Mounir Al-Badarin, age 21, and Al-Khalil; and seriously wounded several others in a centre for disabled persons.⁴⁶

On 16 July 2014, Israel responded and informed the UN body that, on 14 July, Hamas had fired 47 rockets towards the towns and cities of Israel, prompting it to carry out self-defensive actions, which were announced in advance through leaflets, text messages and telephone calls.⁴⁷ The next day, Palestine let the multilateral organ know that Israeli forces had killed a further 23 Palestinians. Among the dead were brothers and cousins, nine-year-old Ismail, 10-year-old Ahed, 10-year-old Mohammed, and 10-year-old Zakariya, who were fired at while playing on the beach in Gaza City. Yasmin Al-Astal, age four; Osama Al-Astal, age six; and Raqiyya Al-Astal, age 70, passed

45 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 11 July 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/639-S/2014/489" (11 July 2014).

46 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 14 July 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/640-S/2014/491" (14 July 2014).

47 Letter from the Permanent Representative of Israel to the United Nations to Secretary-General and the President of the Security Council "Identical Letters Dated 16 July 2014 from the Permanent Representative of Israel to the United Nations Addressed to the Secretary-General and the President of the Security Council – S/2014/499" (16 July 2014).

away when Israeli strikes targeted them. A missile attack killed several members of a Palestinian family – Ibrahim Ramadan Abu Daqqa, age 10; his brother Amro Ramadan Abu Daqqa, age 25; their sister Madeline Abu Daqqa, age 27 – a pregnant mother of three – and their grandmother, Khadra Abu Daqqa.⁴⁸

You have suffered so much that even the devils fled from such pain.

Mario Vargas Llosa *The War of the End of the World*

On 21 July 2014, Palestine advised the Council of the following Palestinian casualties resulting from an attack on Gaza: at least 26 members of the Abu Jami family and 13 victims identified so far as Jawdat Tawfiq Ahmad Abu Jami, age 24; Tawfiq Ahmad Abu Jami, age five; Haifa Tawfiq Ahmad Abu Jami, age nine; Yasmin Ahmad Salamah Abu Jami, age 25; Suhaila Bassam Abu Jami; Shahinaz Walid Muhammad Abu Jami, age one; Rayan Tayseer Abu Jami, age eight; an elderly woman, Fatima Mahmoud Abu Jami; Rozan Abu Jami, age 14; and Ahmad Salhoub, age 34.

The Palestinian communication also stated that the Siyam family had lost 11 members to Israeli shelling: Sumud Nasser Siyam, age 26; Muhammad Mahrous Salam Siyam, age 25; Badir Nabil Mahrous Siyam, age 25; Ahmad Ayman Mahrous Siyam, age 17; Mustafa Nabil Mahrous Siyam, age 12; Ghayda Nabil Mahrous Siyam, age eight; Sherin Muhammad Salam Siyam, age 32; Dalal Nabil Mahrous Siyam, eight months old; and Kamal Mahrous Salamah Siyam, age 27. Five members of the al-Yaziji family, including Yasmin Nayif al-Yaziji; Mayar Nayif al-Yaziji, age two; Wajdi al-Yaziji; Safinaz al-Yaziji, and Anas al-Yaziji, age five, had also died.

The above-mentioned letter also advised the UN organ that, on Sunday, 20 July, Israeli forces had killed at least 72 Palestinians in the Shujaiya area of Gaza, 17 children would never grow up: Ibrahim Ammar, age 13, his brother Assem, age four, and their sister Iman, age nine; Saji Hasan Al-Hallaq, age four, his brother Kinan, age six, and their sibling Mohammed, age two; Shadi Isleem, age 15, and his siblings Alaa, age 11, and Fadi, age 10; Samia Al-Sheikh Khalil, age three, and her sister Hiba, age 13; Khalil Al-Hayyeh, age seven, and his sister Umama Al-Hayeh, age nine; Dima Isleem, age two; Mohamad Ayyad, age two; Rahaf Abu Jumaa, age four; Tala Al-Attawi, age seven; Dina Hamada, age 15; Omar Hamouda, age 10; Ghada Ayyad, age nine; Marah Al-Jammal, age 11; and Marwa Al-Sirsawi, age three. Other children killed by Israeli occupying forces since 17 July 2014 were Afnan Shuheiber, age eight, Jihad Issam Shuhaibar, age 10, and Wasim Issam Shuaibar, age nine, who died in an airstrike on their family home; Ahmad Ismail Abu Musallam, age 10, his sister Wala, age 12, and their brother Muhammad, age 15, who found his premature death when a shell hit their bedroom; Rahaf Khalil Al-Jbour, age four, killed by an airstrike; Yassin Al-Humaidi, age four, dead from injuries sustained in a strike; and Mohammad Shadi Natiz, age 15, and Mohammed Salim Natiz, age four, who departed eternally owing to Israeli tank shelling. On 18 July, death knocked on the door of the Abu Jarad family eight times, five of them for children: 1. Siham Mousa Abu Jarad, age 15; 2. Ahlam Na'im Abu Jarad, age 13; 3. Haniyeh Abdelrahman Abu Jarad, age three; 4. Samih Na'im Abu Jarad, 12 months old; and 5. Mousa Abdelrahman Abu Jarad, six months old. On 19 July, five Palestinian civilians were

48 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 17 July 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/641–S/2014/506" (17 July 2014).

killed by shelling, including Mahmoud Al-Zuwedi; his wife Dalia and their two children, Nagham, age two, and Ro'ya, age three; as well as Mohammad Al-Zuwedi, age 20.⁴⁹

There are in life such hard blows ... I don't know!
Blows seemingly from God's wrath; as if before them
the undertow of all our sufferings
is embedded in our souls ... I don't know!

Cesar Vallejo "Black Messengers"

On 23 July 2014, Palestine informed the Council that, in the last 24 hours, 60 more Palestinians had been killed by Israeli occupying forces. The events reported included the following: on 22 July, Israeli forces killed four members of the Hajjaj family – Rawan Ziad Hajjaj, age 15; Yousef Muhammed Hajjaj, age 28; Muhammad Shehadeh Hajjaj, age 31; and Fayzeh Saleh Hajjaj, age 66; and two elderly women, Hakema Nafe Abu Odwan, age 75, and Najah Nafe Abu Odwan, age 85. On 21 July, 10 members of the Al-Qassas family were killed when their home was shelled, including six children – three-year-old Saman, four-year-olds Arwa and Mohamad, seven-year-olds Isra' and Nesma, and 13-year-old Layma. Eleven people, including six members of the Kelani family – Ibrahim Kelani and his wife and their four children – gave up their soul and 40 others were injured in an attack by Israeli warplanes. On 20 July, a young Palestinian man, searching for family members in the rubble was killed by an Israeli sniper.⁵⁰

On 24 July 2014, Palestine reported to the Council that, in less than 24 hours, more than 120 Palestinians had been killed. Israeli forces targeted a school of the UN Relief and Works Agency for Palestine Refugees (UNRWA), resulting in the death of 17 Palestinians and injuries to more than 200 others sheltering there. Other casualties included at least 10 members of the Al-Astal family, including three children – Amin Tha'er Al-Astal, age three; Nada Tha'er Al-Astal, age five; and Mohammed Ismail Al-Astal, age 17. Israeli forces ended the existence of five members of the Abu Aita family: Ibrahim Abdullah Abu Aita, age 67; Jamila Salim Abu Aita, age 65; Ahmad Ibrahim Abdullah Abu Aita, age 30; and Adham Ahmad Abu Aita, age 11. The communication also stated that 13-year-old Baker Al-Najjar had been killed by a missile; Yazid Sa'ed Al-Batsh, age 23, had died from wounds caused by Israeli shelling; and that Amir Adel Siyam, age 13, and Hadi Abdulhamid Abdulnabia, age one, had seen their last day after an Israeli raid.⁵¹

The UN organ was informed by Palestine on 25 July 2014 that Palestinians taking part in a peaceful civilian demonstration in the West Bank were met with lethal force by Israeli occupying

49 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 21 July 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/642–S/2014/513" (21 July 2014).

50 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 23 July 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/643–S/2014/519" (23 July 2014).

51 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others "Identical Letters Dated 24 July 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/644–S/2014/530" (24 July 2014).

forces. Among those who had lost their lives were Hashem Abu Maria, age 47; Tayeb Abu Shehada, age 22; Sultan Al-Zaaqiq, age 30; Mohammed Eyad Al-Araj, age 19; Abdelhamid Ahmed Ebreighith, age 39; Mahmoud Saleh Hamamrah, age 36; Majd Sufyan, age 27; and Eid Rabah Fdeilat, age 28. Amidst those killed in Israeli airstrikes and bombings in Gaza were Jihad Hassan Hamad, age 20; Imad Abu Kamil, age 20; Tariq Zahad, age 22; Samer Abu Kamil, age 26; Maram Fayyad, age 26; Walid Said Al-Harazin, age five; Najat Ibrahim al-Najjar, age 35; Sharif Muhammad Hassan, age 27; Muhammad Khalil Hamad, age 18; Mamdouh Ibrahim Al-Shawwaf, age two; Rasmiya Salama, age 24; Abdelhadi, age nine, Salah Ahmad Abu Hassanain, age 45, and his son, Abdel Aziz, age 14. The 25 July communication also revealed that Shayma Hussein Abdelqader Qannan, age 23, who had died in Israeli shelling on her family home in Deir Al-Balah, was pregnant, and doctors at Al-Aqsa hospital were able to save her baby.⁵²

He told me about his 8-year-old daughter, Zeina, who refuses to speak
to God since her grandmother was killed and tells her father:
“God is a weak one. I will never say God again. He can’t change anything.”

Roger Cohen (non-fiction)⁵³

On 30 July 2014, Palestine reported to the Council that at least 15 Palestinian civilians were killed and almost 100 wounded when Israeli tanks shelled a UN school. On 29 July, the Abu Jabber family lost 16 members, and the Al-Agha family, 13. On 28 July, 40 people were wounded, and there was no sense in invoking tomorrow for 10 Palestinian people, including eight children, when Israel shelled a park in Gaza City. On 27 July, a 22-year-old man and a four-year-old child were killed when their house was shelled. The letter also mentioned that one hundred and forty-seven people had been pulled from the rubble of flattened homes on Saturday, 26 July, during the period of the humanitarian ceasefire, including the bodies of 11 members of the Hilo family. Finally, the note indicated that life ended for approximately 20 members of the Al-Najjar family, including 11 children, and many others were wounded when their home was attacked, and that, lastly, Israel had heavily shelled Beit Hanoun hospital, injuring 60 paramedics and patients.⁵⁴

in the act of survival he lived a dozen lives and saw more death than he ever thought he would see.

John Hersey *Hiroshima*

52 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others “Identical Letters Dated 25 July 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/645–S/2014/539” (25 July 2014).

53 Roger Cohen “Gaza Is Nowhere” *The New York Times* (online ed, New York, 30 December 2014) <www.nytimes.com>.

54 Letter from the Permanent Observer of the State of Palestine to the United Nations to the Secretary-General and others “Identical Letters Dated 30 July 2014 from the Permanent Observer of the State of Palestine to the United Nations Addressed to the Secretary-General, the President of the General Assembly and the President of the Security Council – A/ES-10/646–S/2014/551” (30 July 2014).

The narrative just summarised repeats itself in its violence and civilian suffering in the letters received by the Council from August 2012 to June 2013,⁵⁵ as well as in those randomly chosen backwards: in the communication sent by Israel on 12 March 2011⁵⁶ and replied to by Palestine on 22 March 2011;⁵⁷ in the letter forwarded by Israel on 18 March 2010⁵⁸ and answered by Palestine on 23 March 2010.⁵⁹ Thus, the narrative presented here is not an isolated event.

The letters to the Security Council share a stunning pattern: in all of them Israel and Palestine have ignored each other's civilian casualties and civilian suffering.⁶⁰ That such a situation is taking place at a time when the armed conflict is close to reaching its seventh decade should vex both.

It is important to mention that the narrative contained in the previous part is, to be sure, a fraction of the reality of the Palestinian and Israeli civilian suffering, since the letters themselves do not include all of it. Further, can the Palestinian notes be overstating civilian casualties? There is no need to assume that all the Palestinian casualties were civilians who were entitled to protection according to international humanitarian law. Although the present author has excluded in most cases those casualties in which Palestine states that the person was directly targeted by Israeli forces – since the civilian nature was contested by the latter⁶¹ – it is also possible that some of the Palestinian casualties were civilians taking direct part in hostilities, according to art 51 of the Additional Protocol I. Finally, it is also possible that some of the Palestinian casualties were lawful according to international humanitarian law, in particular the principle of proportionality. Such possibilities still leave intact a great deal of the Palestinian civilian tragedy reported to the Council.

But there is an additional question: do the communications always tell the truth? Although Churchill once said that “the first casualty in war is the truth,” there is evidence that the letters are genuine: neither Israel nor Palestine refuted what the other expressed in its notes to the Council. To be sure, rebuttals may be made in different fora, but they were not made to the Council and the General Assembly and, in general, to the international community. Furthermore, there is no need to assume that the letters are always accurate, because there is a fundamental truth regarding both

55 The author has reviewed all of the letters from Israel and Palestine reported by the Council as having been received during the said period in its annual report to the General Assembly. As to them, see *Report of the Security Council 1 August 2012–31 July 2013* (General Assembly Official Records, 68th Session, Supplement No 2) at 119–125.

56 Letter from the Representative of Israel to the Secretary-General and the President of the Security Council “Identical letters from the representative of Israel to the Secretary-General and the President of the Security Council – S/2011/136” (12 March 2011).

57 Letter from the Observer of Palestine to the Secretary-General and the President of the Security Council “Identical letters from the observer of Palestine to the Secretary-General and the President of the Security Council – S/2011/173” (22 March 2011).

58 Letter from the Representative of Israel to the Secretary-General and the President of the Security Council “Identical letters from the representative of Israel to the Secretary-General and the President of the Security Council – S/2010/137” (18 March 2010).

59 Letter from the Observer of Palestine to the Secretary-General and the President of the Security Council – S/2010/155 “Identical letters” (23 March 2010).

60 In legal terms, the letters to the Council are unilateral declarations. See in this regard, International Court of Justice *Nuclear Tests Case (New Zealand v France)* [1974] ICJ 457 at [46]–[49]; and International Law Commission *Guiding Principles Applicable to Unilateral Declarations of States Capable of Creating Legal Obligations, with Commentaries Thereto* (2006) Principle 7 at 378.

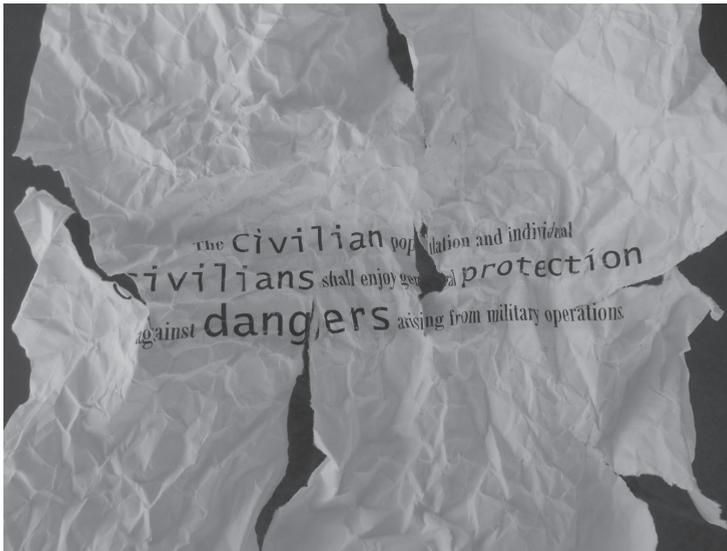
61 The communications sent by Palestine on the following dates mentioned Israeli operations against Palestinians. In 2012, 6 September, 8 October, 24 October, 24 October, 1 November, 12 November, 14 November and 20 November. In 2013, 24 January, 14 March, 23 August, 27 November and 19 December. Finally, in 2014, 23 January, 27 February, 5 March, 17 June, 30 June, 8 July, 14 July, 17 July, 24 July and 25 July.

Israel and Palestine: neither expressed regret for the other's civilians' suffering during the 65th and 66th years of the conflict.

In addition, it can be claimed that letters to the Council may have practical limitations in terms of being suitable to recognise the other's civilian suffering. This would be the case of those communications in which Israel had invoked the right of self-defence under art 51 of the UN Charter and notified the Council of its use of force for the said purpose, and according to this provision.⁶² The argument would go on to state that, under this circumstance, these kinds of communication had a specific objective, that of complying with a legal requirement of the UN Charter, and room for these considerations would be narrow in practice. It could also be said that, in other situations, the letters could be forwarded to the Council in order to make it aware of a threat to international peace and security and to request its action under ch VII.

While this argument may be based on practical considerations, the limitations the argument refer to are not legal. In effect, in legal terms, there is nothing preventing UN members from invoking art 51 and from informing the Council of situations that constitute threats to international peace and security and, at the same time, recognising civilian suffering other than their own. A letter to the Council by Israel suffices to prove this. On 11 January 2005, Israel forwarded to the Council a communication related to the situation in Lebanon. Responding to an attack, Israel killed a French national and UN officer and expressed "sorrow at the death of Jean-Louis Valet, and offers its condolences to his family and loved ones."⁶³

II. OPEN CONCLUSION



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62 *Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)*, Merits [1986] ICJ 14 at [200].

63 Letter from Permanent Representative of Israel to the United Nations to the Secretary-General "Letter Dated 11 January 2005 from the Permanent Representative of Israel to the United Nations Addressed to the Secretary-General – A/59/667–S/2005/14" (11 January 2005).

64 Concept and photography by Alberto Alvarez-Jimenez.

As Thomas Franck said:⁶⁵

The effectiveness of the rules in influencing difficult decisions implicating the national interest inevitably must depend, at least in part ... on the calculations of the parties regarding the likelihood that bad consequences will follow a finding that they have acted unlawfully ...

By analogy with Umberto Eco's *The Open Work*, in which he highlights the existence of deliberately unfinished works of art,⁶⁶ this is an open international law article. It proposes scholars to answer a fundamental legal question for the benefit of civilians: how to *reinterpret* international humanitarian law or international criminal law in a way that alters adversaries' calculations and makes each other's civilian tragedy visible to them in this armed struggle or in any other in which the parties are behaving likewise? Franck calls for bad consequences for governments. However, could different branches of international law be reinterpreted in a way that creates instead *incentives* for any of the parties to acknowledge the other's civilian suffering?

The answers to these questions should be several and the outcome of individual or collective efforts. The present author, to be sure, has his. They are part of another piece in this volume. Here, it is more than enough to focus all the lights on the *scale* of Israeli and Palestinian civilian tragedy, on the *shameful* silences of their respective governments, and on the *need* to offer answers to the foregoing questions. Decades of the evolution of international law aimed at strengthening the dignity of human beings should not allow this silence to happen.

65 Thomas M Franck "On Proportionality of Countermeasures in International Law" (2008) 102 *American Journal of International Law* 715 at 728.

66 Umberto Eco *The Open Work* (Harvard University Press, Cambridge (Mass), 1989) at 4.