

Gaza-Israel; the Legal and the Military View
General Sir Nick Parker and Sir Geoffrey Nice QC

“War Crimes’ - do we use the term too casually?

For long enough commentators have usually assumed the Israel - Palestine armed conflict might be lawful, even if individual incidents on both sides attracted condemnation. But is that assumption right? May the conflict lack legality altogether, on one side or both? Have there been war crimes committed by both sides as many suggest?

The 2014 Israeli – Gaza conflict (that lasted some 52 days and that was called 'Operation Protective Edge' by the Israeli Defence Force) allows a way to explore some of the underlying issues of the overall conflict. General Nick Parker explains how he advised Geoffrey Nice to approach the conflict's legality and reality from a military point of view. Geoffrey Nice explains what conclusions he then reached. Were war crimes committed by either side?

OPERATION PROTECTIVE EDGE STATISTICS

Estimated deaths in 'Protective Edge':

66 Israeli military

6 Israeli civilians;

2,131 Gazans, of whom

1,473 identified as civilians, including 501
children

Source: UN OCHA September 2014

Professor Avi Shlaim FBA

Emeritus professor of International Relations at the University of Oxford and a Fellow of the British Academy.

Books include:

The Iron Wall: Israel and the Arab World

The Politics of Partition: King Abdullah, the Zionists, and Palestine, 1921-1951

War and Peace in the Middle East: A Concise History

The Balfour Declaration

Foreign Office

November 2nd, 1917

Dear Lord Rothschild,

*I have much pleasure in conveying to you, on behalf of His Majesty's Government, the following declaration of sympathy with Jewish Zionist aspirations which has been submitted to, and approved by, the Cabinet. "His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, **it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country.**"*

I should be grateful if you would bring this declaration to the knowledge of the Zionist Federation.

Yours sincerely,

Arthur James Balfour

Foreign Office,
November 2nd, 1921.

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Yours faithfully,
Arthur Balfour

Area allocated for the Jewish National Home, San Remo Conference 1920

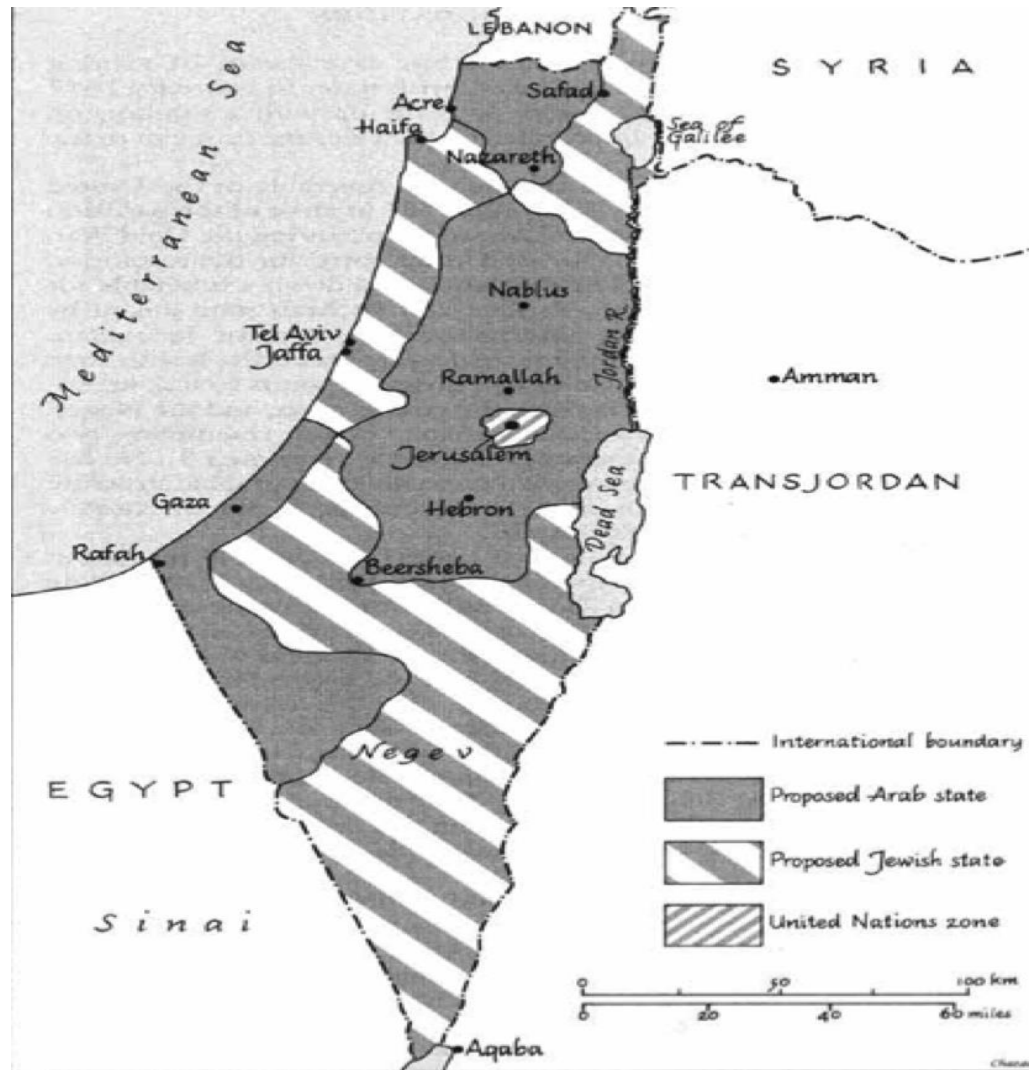


Area Allocated for Jewish National Home
San Remo Conference, 1920

Ze'ev Jabotinski

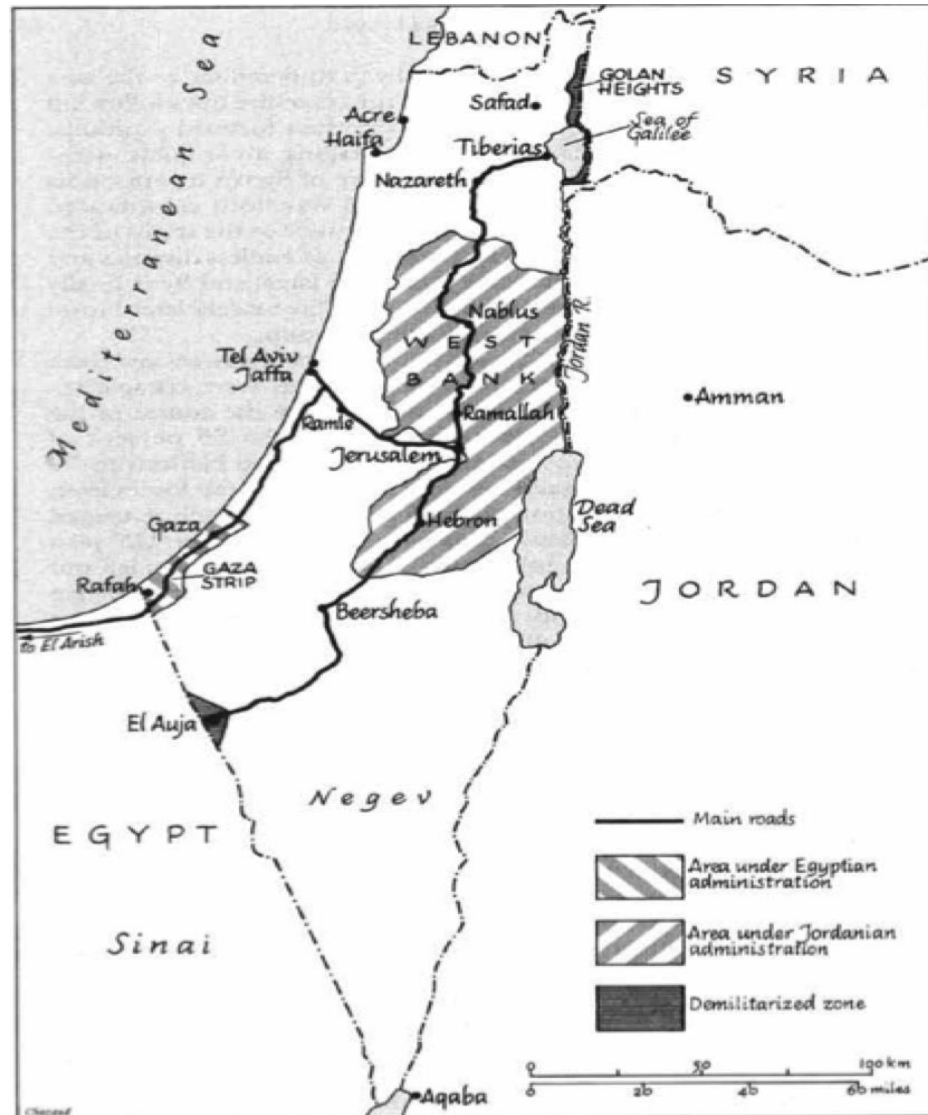
‘A voluntarily agreement between us [Jews] and the Arabs is inconceivable.... Every indigenous peoples will resist alien settlers as long as they see any hope of ridding themselves of the danger of foreign settlement. This is how the Arabs will behave and go on behaving so long as they possess a gleam of hope that they can prevent Palestine from becoming the Land of Israel.’

United Nations Partition Plan 1947



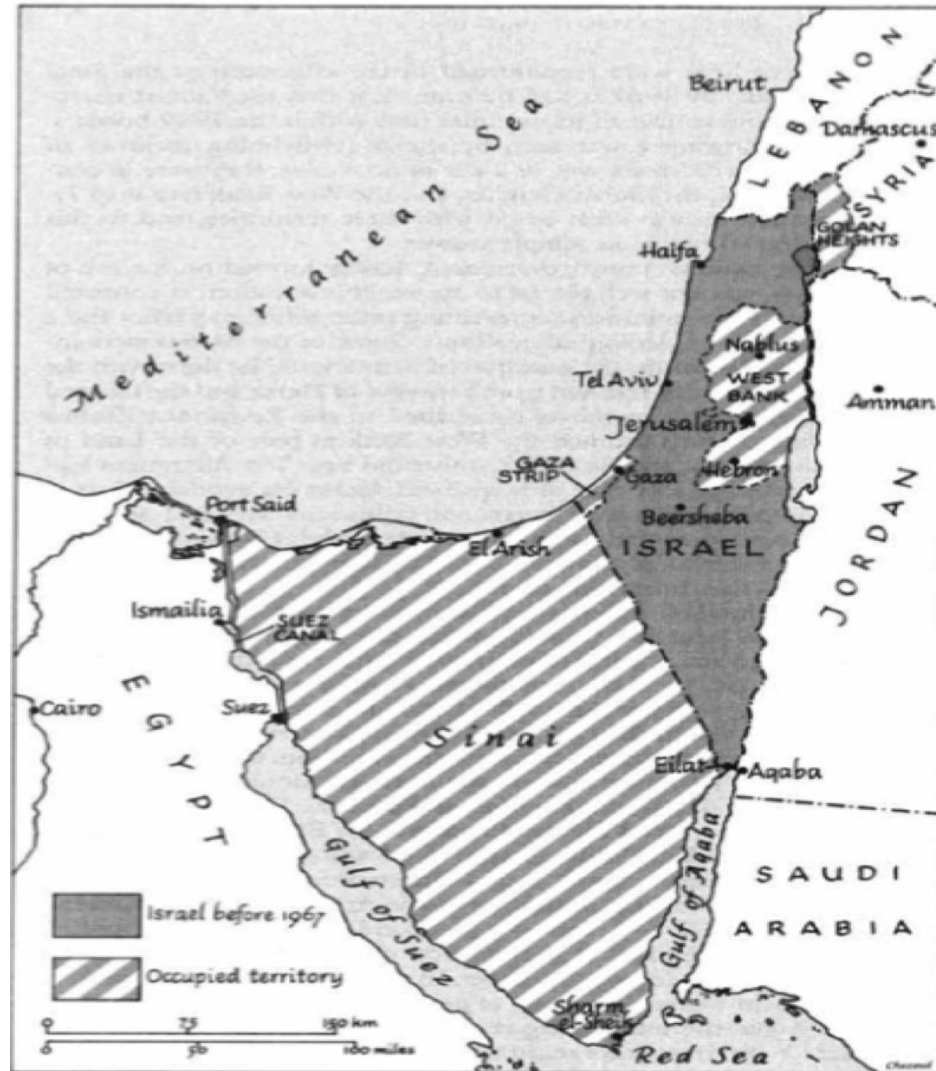
4. The United Nations partition plan, 1947

Israel following Armistice Agreements 1949



5. Israel following the armistice agreements, 1949

Israel and the Occupied Territories 1967



8. Israel and the occupied territories, 1967

Rodney Dixon QC

Co-author of Archbold International Criminal Courts: Practice, Procedure and Evidence

Visiting Senior Research Fellow, Department of War Studies, King's College, London, 2012-2014

Senior Expert Consultant for OSCE War Crimes Justice Project in the former Yugoslavia,

GAZA November 2014

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ACCESS AND CLOSURE

DECEMBER 2012































General Sir Nick Parker KCB CBE

Commander of UK Joint Task Force and advisor to the President of Sierra Leone in 2001,

Deputy Commanding General (UK) Multi-National Corps Iraq from August 2005 to February 2006.

Last GOC Northern Ireland 2006 to 2007

Deputy Commander for the International Security Assistance Force (DCOM ISAF) in Afghanistan between November 2009 and September 2010.

Commander in Chief Land Forces in October 2010 -May 2013

The Six Incidents

Boys on the Beach Strike

Occurred on 16 Jul, one week into the operation and before the main Land incursion. One shell hits a hut on a groin, followed by 1 or 2 subsequently aimed at targets appearing to move from the hut. 4 Children killed 6 wounded.

Al Ajrami Missile Strike

In the middle of the ground offensive, on 24 Jul, in the middle of the night, an accurate missile strike in a heavily populated area caused significant collateral damage to a neighbouring house killing 5 and injuring 8. The attack was preceded by a 'knock on the roof' which alerted the neighbours, but did not result in them fleeing the area. The explosive attack happened 3 minutes after the warning strike.

Khuza'a White Flag Shooting

This took place during the hand to hand combat phase of the ground offensive. A family member, who was taking cover, exposed himself to ground troops waving a white flag, and was the shot and killed. Other members of the same family were then used to gather tactical intelligence and provide protection to attackers

Al Wafa Hospital Destruction

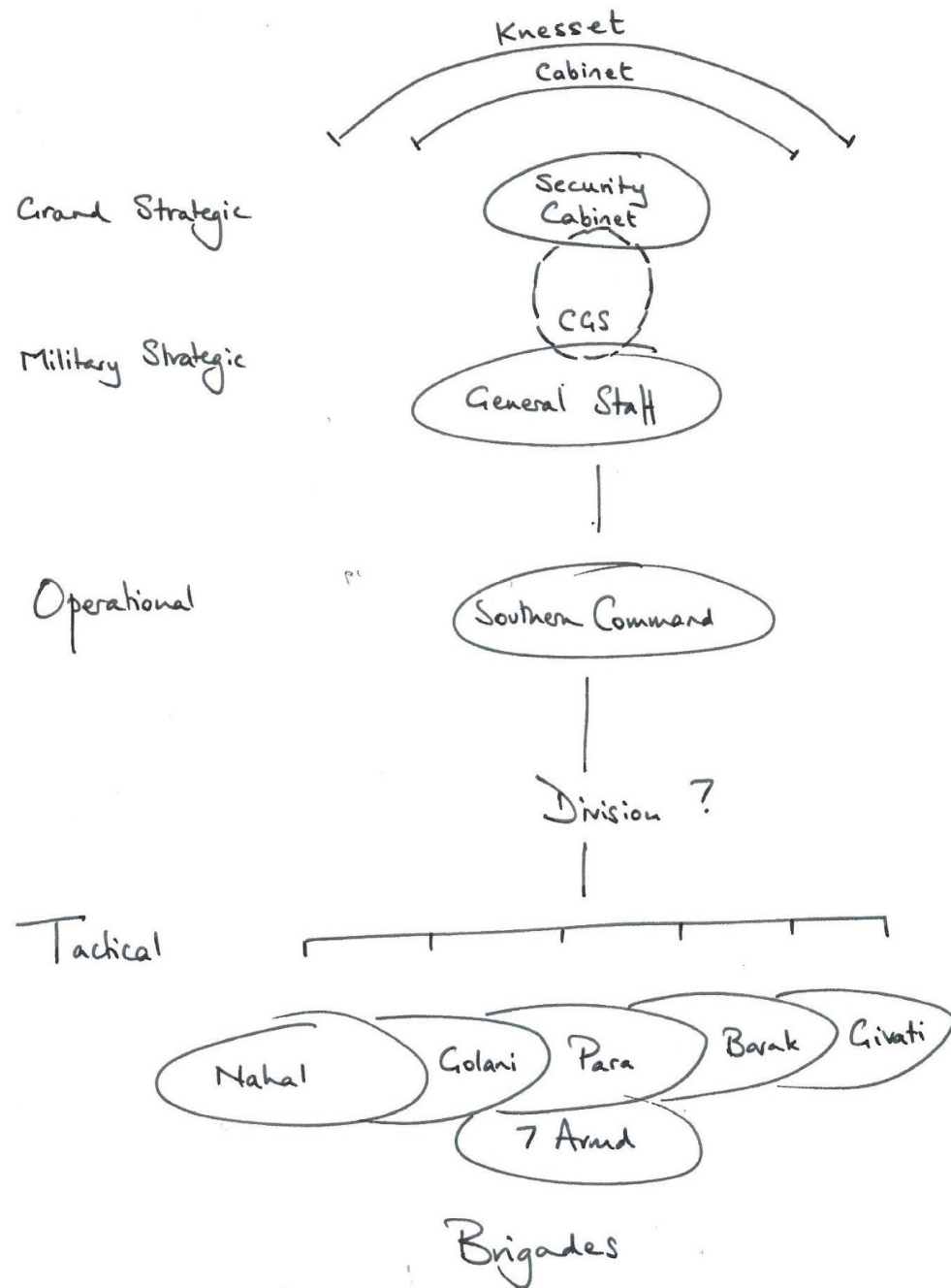
The Al Wafa Hospital was first attacked without warning on 11 Jul 14. It was subsequently completely destroyed after warnings to the occupants to leave on 22 Jul 14. The hospital is located on the forward edge of Shuja'iyya and overlooks the border. It was alleged that Hamas fighters were using it as a firing position and a store for missiles.

Jabalya United Nations School Shelling

The school was hit by a number of missiles in the latter stages of the ground invasion. At the time it was being used by displaced persons as a refuge. A number of civilians, including children were killed and wounded

Gaza Power Generating Plant Destruction

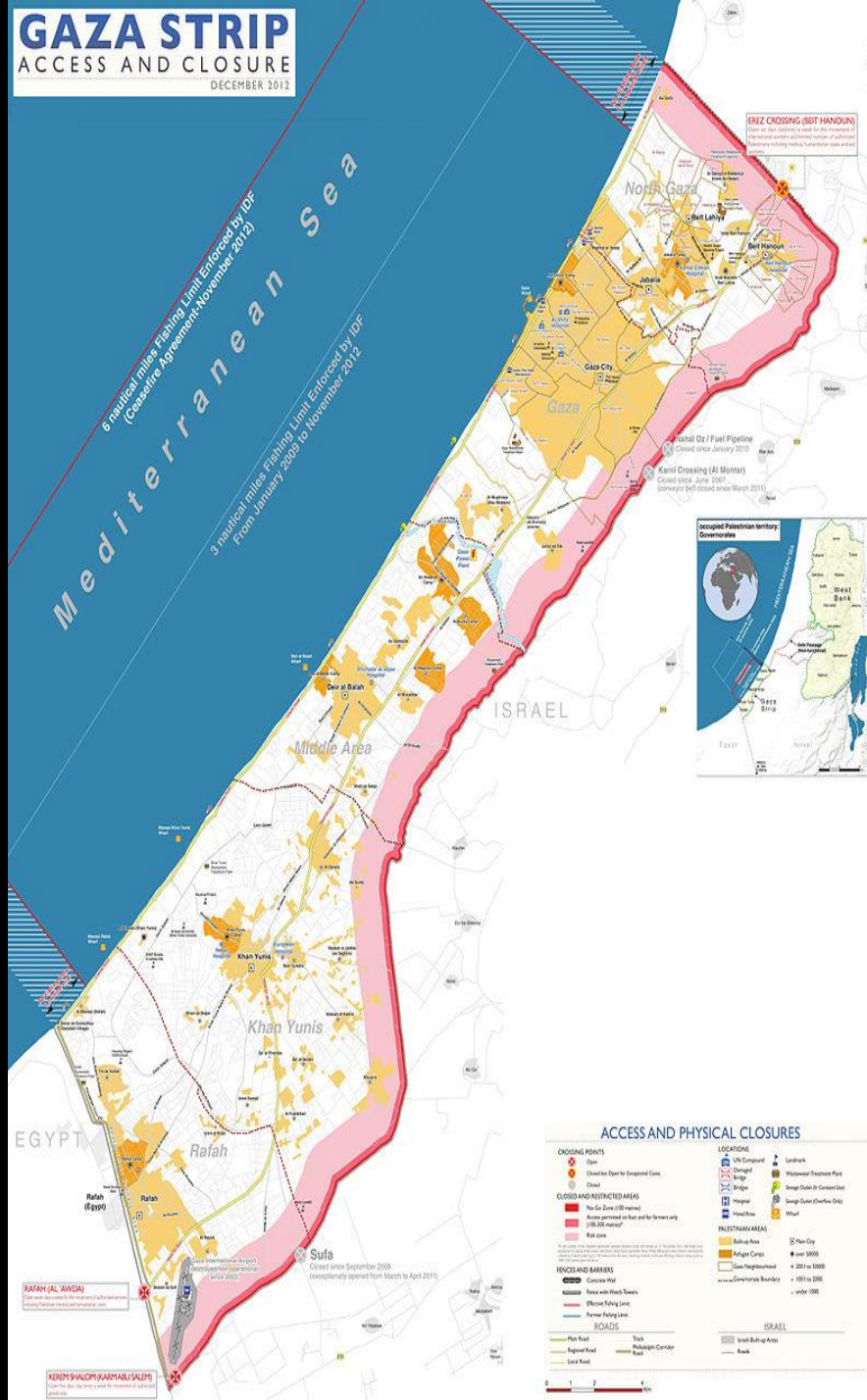
Summary of Incident – Systematic destruction of the plant over a number of days eventually rendered it inoperable.



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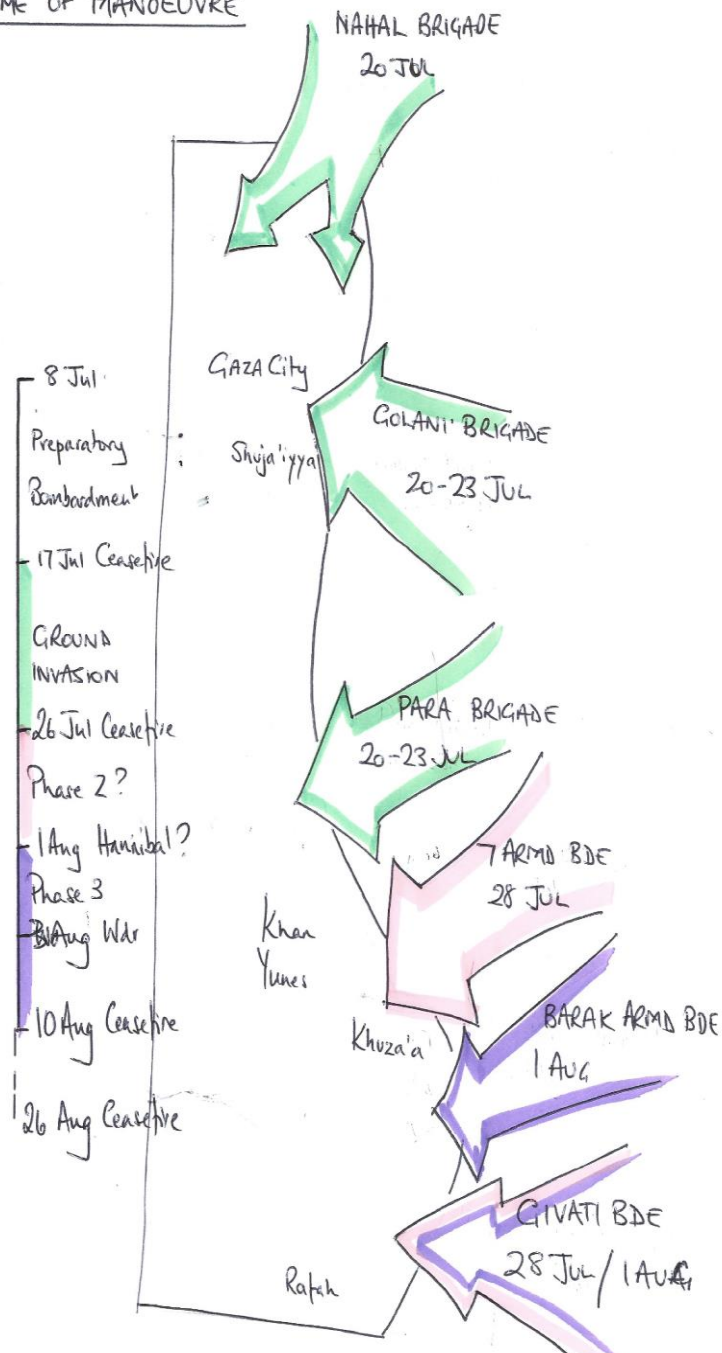




Timeline

12 Jun		Three Israeli teenagers kidnapped in West Bank
Jun	66 rockets fired in 30 attacks	
7 Jul		Airstrike on 150 targets in Gaza Strip, approval to call up 40,000 reserves.
8 Jul		Op Protective Edge launched
11 Jul		Hossam Kawasmeh captured – not announced until 5 Aug.
		First attack on Al Wafa Hospital
14 Jul	Ceasefire proposed	
15 Jul	Temporary Ceasefire rejected	
16 Jul	Truce offered by Hamas	Boys on the Beach Strike
17 Jul	Hamas militants sighted coming out of a tunnel into Israel	Tunnel destroyed
	5 hour UN humanitarian ceasefire	
		IDF ground invasion starts
20 Jul		IDF enter Shuja'iyya heavy fighting
24 Jul	Protests on the West Bank	Al Ajrami Missile Strike / Khuza'a White Flag
26 Jul	Humanitarian ceasefire, extension rejected by Hamas	
29 Jul		Gaza Power Plant destruction
30 Jul		UNRWA School Jabalya 'Abu Hussein'
1 Aug	'Kidnapping' of Hadar Goldin –	Hannibal Protocol
3 Aug		IDF withdrawal starts, 32 tunnels destroyed
10 Aug	Ceasefire agreed	
19 Aug	Violation 29 rockets fired, IDF airstrikes	
22-26 Aug	Hamas reported firing 700 rockets/mortars	
26 Aug	Open ended ceasefire	

OP PROTECTIVE EDGE
SCHEME OF MANOEUVRE



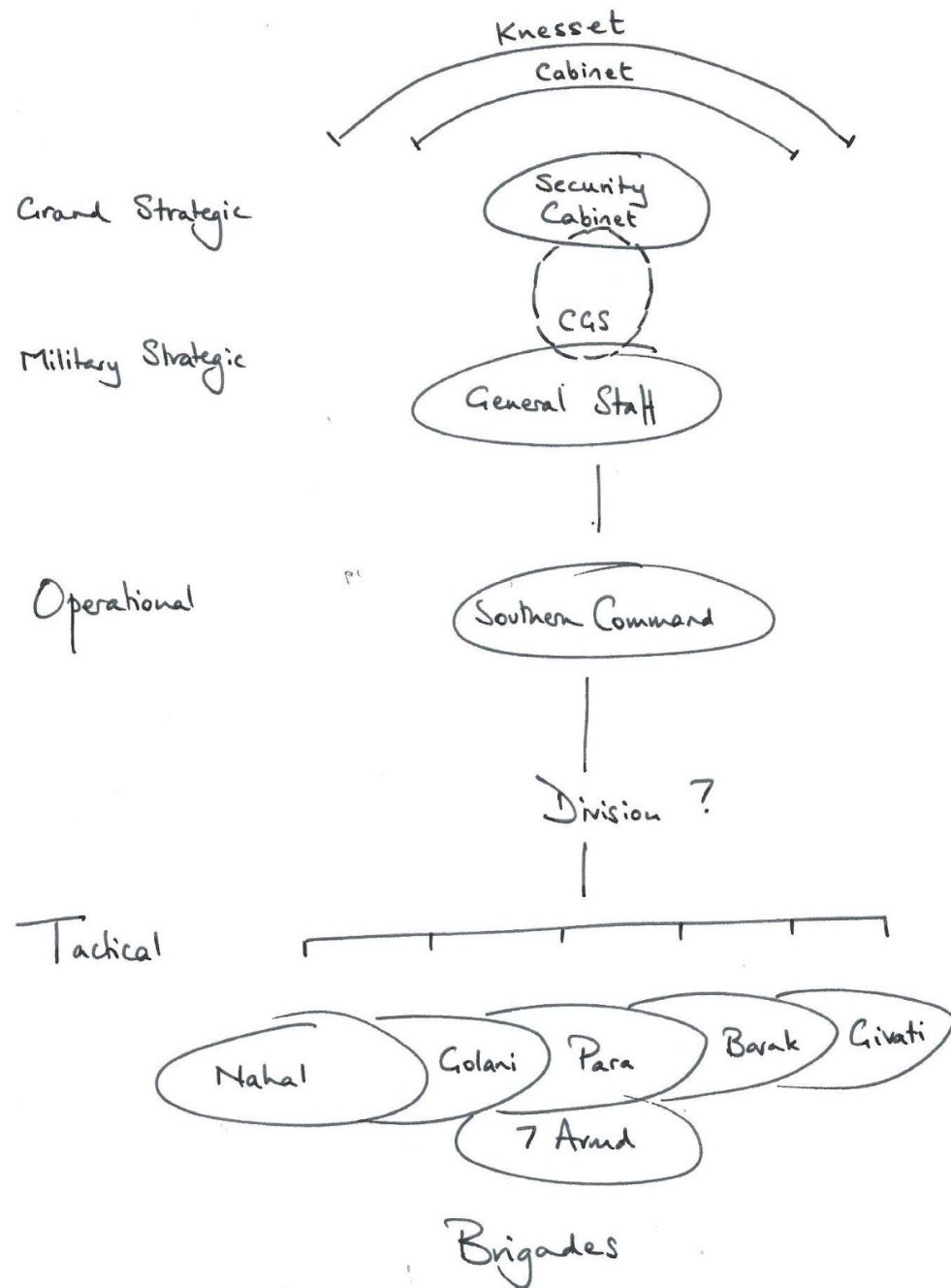
Israeli Tactics

- The Hannibal Protocol
- Dahyia Tactics
- Mowing the Grass
- Knock on the roof



Conclusions

- The link between tactical, operational and strategic actions



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- The purpose of seizing ground



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- The link between tactical, operational and strategic actions
- The purpose of seizing ground
- The management of refugees



Dr Nevenka Tromp

University of Amsterdam, Department of
European Studies 1992 –

Lead researcher ICTY 2000 – 2012

Principal researcher Milosevic Trial 2001 -2006

Rabbi Yosef Sermon December 2009

“How can you make peace with a snake?”(...)

“Those evildoers, the Arabs — it says in the Gemara [Talmud] that God is sorry he ever created those sons of Ishmael.”

“They’re stupid. Their religion is as ugly as they are.”

Moshe Ya'alon, the Minister of Defence

“As long as three-years old children are being educated to carry explosive belts at ceremonies and Israel does not appear on their maps, there is no chance for peace”

Colonel Ofer Winter, commander of the Givati Brigad

letter to his troops on the eve of the Protective Edge

“History has chosen us to be the sharp edge of the bayonet of fighting the terrorist enemy from Gaza which curses, defames and abuses the God of Israel’s battles ... We will ... wipe out the enemy ... Using all means at our disposal and with all required force ... I turn my eyes to the sky and call with you ‘Hear, O Israel: The Lord our God is one Lord.’ God, the Lord of Israel, make our path successful, as we are about to fight for Your People, Israel, against an enemy who defames your name.”

Ayelet Shaked, a member of the Knesset for The Jewish Home Party

On Monday, July 7 2004, just one day before the Protective Edge Operation started, Shaked posted on her Facebook page the following entry:

"They have to die and their houses should be demolished so that they cannot bear any more terrorists," (...) "Behind every terrorist stand dozens of men and women, without whom he could not engage in terrorism. They are all enemy combatants, and their blood shall be on all their heads. Now this also includes the mothers of the martyrs, who send them to hell with flowers and kisses. They should follow their sons, nothing would be more just. They should go, as should the physical homes in which they raised the snakes. Otherwise, more little snakes will be raised there."

,_Ayelet Shaked

- Once the war was under way:
- “This is a war. Not a war on terror, not a war against extremists, or even a war against the Palestinian Authority. All are forms of evading reality. This is a war between the two nations. Who is the enemy? The Palestinian people. Why? Ask them, they started. **What is so shocking in understanding that the whole of the Palestinian people are the enemy. Every war is between two nations, and all of the people that opened the war, as a whole, is the enemy.**

Minister Naftali Bennet

One week after the war had started and two days before the IDF was to launch a land offensive on 08 July, stated in front of the TV cameras:

“I think it is terrible that Hamas is butchering his own children. I would never take my children and place them next to a rocket launcher. Here’s what they are doing. Hamas is conducting massive self-genocide. They’re taking women and children, placing them placing them next missile launchers, and shooting the missiles at Israel.”

Eli Ben Dahan – the Religions Deputy Minister

"Experience shows that women who go and marry a Muslim man, are returning to their homes after a painful and battered several years, sad to see the most beautiful years of their lives lost"

"[...] surely we should be disturbed, [...] Her children will be Jewish according to Jewish law, but according to Muslim law, they will be Muslims. So what shall be with them?"

"[Mixed marriages] are a silent holocaust"

Naftali Bennet

After the Operation Protective Edge

"Gentiles live beside us, raised on hatred. Kindergartners teach to kill Jews and summer camps are training how to kill Jews."