

- **Where:** Gaza Strip
- **When:** 27th December 2008 – 18th January 2009
- **What:** CBRN Agent Released: **White Phosphorus**;
- **Who:** Actor(s) involved: Israel Defence Forces
- **Why:** CBRN Event: Armed Conflict



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USE OF WHITE PHOSPHOROUS IN THE GAZA WAR

Keywords: Gaza – Israel – White Phosphorus – Incendiary Weapons

The facts

The use of white phosphorous (WP) as a weapon has been reported in the Gaza War of 2008-2009. Also called Operation Cast Lead, it has been a three-week long conflict between the Israel Defence Forces (IDF) and the Palestinian paramilitary group Hamas in the Gaza strip, and is inscribed into the decades-long series of clashes between Israeli and Palestinians. Overall, in the operation more than 1,400 Palestinians were killed, while thousands were injured, including children, women and elderly people.

WP is the chemical agent with the highest smoke screening effect. It can be dispersed through artillery shells, bombs, rockets or mortars and burns in contact with oxygen, reaching up to 816°, until it is completely depleted or oxygen supply is cut. Air-bursting can spread WP up to a radius of 125m from blasting, with an enormous potential of incidental damage. It can cause harm to people due to burning and vapor inhalation, possibly poisoning of organs and causing irremediable harm, as confirmed by medical reports.

IDF has been proven to use WP in densely populated areas of Gaza, as the Tel al-Hawa neighbourhood, the Al-Quds and al-Wafa hospitals (comprising the administration building of the Palestinian Red Crescent Society), a UNRWA compound and a School in Beit Lahiya. The Israeli claim to have used it to cover troops' movement, although there were no forces on the ground justifying this aim and it was further proved the use of WP as an exploding shell.

Legal response

The use of WP is not *per se* illegal under international law and its use as a smoke screen is generally considered legitimate. When used as a weapon, it is considered an incendiary one, falling under the definition of Protocol III of the Convention on Certain Conventional Weapons (not signed by Israel), which also prohibits the use of air-dropped incendiary weapons in highly populated areas.

The employment of WP by the IDF went also against general principles of international humanitarian law of distinction, prevention and precaution. Its use in highly populated areas is considered an indiscriminate attack, posing unnecessary risks to the population when compared to the limited military

IN PILLS

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advantage. The Israeli shall have also looked for non-toxic smoke-screening means, as affirmed by customary IHL.

The international response in regards to the Gaza War has led to the Goldstone Report, of the United Nations Fact-Finding Mission on the Gaza Conflict, which affirmed the commission of war crimes by Israel. The Palestinian Authority had requested the International Criminal Court (ICC) to investigate the war crimes perpetuated during the conflict. The court denied its competence on the matter, as the PA is not considered a State. A case on the use of WP was also brought to the Israeli Supreme Court, which dismissed the claims.

Related legal tools:

- [Customary Law on the Use of Incendiary Weapons](#)
- [Convention on Prohibitions or Restrictions on The Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects](#)

Further readings:

- [Human Rights Watch Report](#)
- [United Nations Fact Finding Mission on the Gaza Conflict](#)
- [Yoav Hess et al v. Chief of Staff, HCJ 4146/11, Supreme Court, 09 July 2013](#)
- [ICC Statement on Palestine, 2012](#)

About this publication

This memo is the outcome of research carried out in the scope of the project CBRN-ITALY on International legal obligations related to Prevention, Preparedness, Response and Recovery from CBRN events and status of their implementation in Italy.

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The project aims at developing a common understanding of CBRN events and of actors involved (stage 1), at mapping obligations stemming from the wide range of applicable norms of International Law and European Union Law (stage 2), at exploring the implementation of applicable international obligations in Italy (stage 3) and at providing recommendations to address the gaps in the International, European and Italian legal and policy frameworks in all phases of the CBRN emergency management cycle (stage 4). The research activities are thus structured around four stages: 1. Definitions, 2. Mapping International and Regional Obligations, 3. Assessing the situation in Italy, 4. Providing recommendations.

For further information on the PRIN Project CBRN-ITALY, please visit:

<http://www.cbrn-italy.it/en>

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