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Calculating Civilian Conflict Fatalities: A Demographic Analysis of Palestinian Conflict Fatalities during the al-Aqsa Intifada (29 September 2000 to 26 December 2008)

ABSTRACT

In conflicts involving asymmetric warfare in which fighters typically do not wear uniforms and often operate from civilian areas, verifying the claims of civilian and combatant status of fatalities is extremely difficult. Despite these difficulties, many analyses of modern conflicts, power relationships, international law, human rights, and proportionality of military responses make extensive use of relative fatality statistics. However, rigorous and verifiable methodologies – or any methodologies at all – are rarely published alongside the claims of relative civilian and combatant fatalities. As such, this paper employs an inferential statistical study of general validity to test whether determinations of civilian and combatant fatalities in the first eight years of the al-Aqsa Intifada by the NGO B'Tselem are accurate. B'Tselem's determination of conflict fatalities is employed because B'Tselem has compiled the richest and most comprehensive data set available for this sort of conflict. Thus one can test B'Tselem's classifications of fatalities against the demographic data compiled by that organization itself. Such an analysis finds that there is a significant discrepancy between the likely range of civilian fatalities indicated by a demographic analysis of the fatalities and the determinations made by B'Tselem. This discrepancy begs a further analysis of B'Tselem's methodology in classifying conflict fatalities which reveals profound methodological flaws in B'Tselem's widely cited determinations of non-combatant Palestinian conflict fatalities.

Introduction

Many analyses of modern conflicts, power relationships, international law, human rights, and proportionality of military responses make extensive use of relative fatality statistics. In the publications and evaluations issued by international organizations such as the World Bank, the United Nations Human Rights Council and Office for the Coordination of Humanitarian Affairs (OCHA), and by governments, such as the annual US State Department Country Reports on Human Rights, such fatality information is generally taken from reports by international and local human rights organizations. The same is true for journalists and academics, which rely on Non-Governmental Organization (NGO) sources for fatality information.

Yet, in conflicts involving asymmetric warfare in which fighters typically do not wear uniforms and often operate from civilian areas, verifying claims of combatant or non-combatant status of fatalities is extremely difficult. The detailed analyses published by Don Habibi in the *Journal of Human Rights*¹ and by Robert Blitt² in the *Buffalo Human Rights Law Review* raise questions regarding consistency as well as potential distortions and biases in the role of NGOs in ethno-national conflicts, particularly the methodology they use to verify claims of civilian fatalities. Extending their pioneering work on this question, this paper employs an inferential statistical study of general validity to test whether determinations of civilian and combatant fatalities in the first eight years of the al-Aqsa Intifada by the NGO B'Tselem are accurate. It appears that the

¹ Don A. Habibi, "Human Rights and Politicized Human Rights: A Utilitarian Critique," *Journal of Human Rights* (ISSN 1475-4835) 6:1 (January 2007), pp. 3-35, <http://web.ebscohost.com/ehost/detail?vid=1&hid=14&sid=7ab9fe5e-3a0e-49ff-8d00-86009d0a1ff1%40SRCM2> (accessed 14 April 2008).

² Robert C. Blitt, "Who Will Watch the Watchdogs? Human Rights NGOs and the Case for Regulation", *Buffalo Human Rights Law Review*, vol.10 (2004), pp. 261-398. Available from <http://www.heinonline.org/>, (accessed 14 April 2008).

claims by B'Tselem of the relative number of civilian and combatant Palestinian fatalities in Gaza and the West Bank during the first eight years (2000-2008) of the al-Aqsa Intifada are not reliable because B'Tselem's determinations are substantially discrepant with the likely range of civilian and combatant fatalities determined by a demographic analysis of the fatalities and that there are clearly evident and very significant methodological flaws in B'Tselem's classification of conflict fatalities.

Sources

This paper uses the data available from B'Tselem's Intifada fatalities database, *Statistics: Fatalities*, to examine Palestinian fatalities during the first eight years of the al-Aqsa Intifada – from 29 September 2000 to 26 December 2008, when B'Tselem ceased their monthly updates of Intifada fatalities.³ In the Israeli-Palestinian conflict, B'Tselem is the main NGO that is typically and widely quoted regarding relative fatalities, with particular emphasis on the distribution between fighters and civilians. B'Tselem is routinely cited in analyses of the situation by major international Human Rights NGO, such as Human Rights Watch;⁴ major international organizations, such as the World Bank;⁵ as well as influential national foreign ministries, such as the US State

³ B'Tselem, *Statistics: Intifada Fatalities*, <http://www.btselem.org/English/Statistics/Casualties.asp> (accessed 29 December 2008). Some entries may have changed in response to a draft version of this manuscript provided to B'Tselem by Henrik Urdal, Associate Editor of the *Journal of Peace Research*. Original entries are cited with their date of access and are on file with the author; as well, they can also be viewed via the Internet Archive Wayback Machine, <http://web.archive.org/web/20080110042200/http://www.btselem.org/english/statistics/Casualties.asp>

⁴ See, for example, Human Rights Watch, "Gaza Strip/Israel: Civilians Bear Brunt of Attacks" *News (Human Rights Watch)* <http://www.hrw.org/en/news/2008/02/28/gaza-stripisrael-civilians-bear-brunt-attacks> (accessed 13 January 2009).

⁵ See, for example, World Bank, *The Palestinian NGO Project (II)*, <http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=64290415&theSitePK=40941&menuPK=228424&Projectid=P071040> (accessed 14 April 2008).

Department;⁶ and major international press organs, such as *The Economist*.⁷ Further, this database provides the richest and most comprehensive data set available for a conflict involving asymmetric warfare in which fighters typically do not wear uniforms (or any other distinctive insignia visible at a distance) and often operate from civilian areas – indeed, perhaps for any military conflict.

The database consists up to 16 fields for each fatality, including the fatalities' name; basic demographic data such age, gender, citizenship, and place of residence; basic information on the event such as the citizenship of the fatality, the party responsible for the fatality, the events' date, the events' location, the nature of the injury, the source of fire, the type of ammunition used, whether the fatality occurred in the course of a targeted killing operation and whether the fatality was that object of a targeted killing; a section for other "notes" or greater information on the context of the fatality; and, the subjective determination of whether the fatality was "killed while fighting." Although a number of the fields are blank or listed as "unknown" for many of the entries, the fields which contain the essential information on the nature of the event (the party responsible for the death, the event's date, and the event's location) and basic demographic data on the fatality (the fatalities' citizenship, age, and gender), necessary for doing a demographic analysis are all available for over 98% of the entries. As such, this database presents an excellent source to which an inferential statistical study of general validity can be applied to test the determinations of civilian and combatant fatalities based upon it.

⁶ US Department of State, "Israel and the Occupied Territories" *Country Reports and Human Rights Practices, 2007* (Washington DC: Bureau of Democracy, Human Rights, and Labor, 11 March 2008) <http://www.state.gov/g/drl/rls/hrrpt/2007/100597.htm> (accessed 14 April 2008); this 2007 report cites B'tselem 27 times. See also NGO Monitor Press Release: "State Department too reliant on NGOs in Israel human rights country report," March 27, 2008, <http://www.ngo-monitor.org/article.php?id=1859> (accessed 14 April 2008).

⁷ *The Economist*, "Pummelling the Palestinians," p. 32, Volume 390, Number 8612 (January 3rd-9th, 2009).

B'Tselem, in their summary of fatalities from the al-Aqsa Intifada for this period, records a total of 4791 Palestinians fatalities from Israeli security forces in the Occupied Territories (including both fighters and civilians); of these fatalities the necessary demographic data is available for 4704 of the 4791 Palestinian fatalities. It is these 4704 fatalities that provide that main data set for this analysis.

Al-Aqsa Fatalities from 29 October 2000 to 28 October 2008, as compiled by B'Tselem

	<i>Gaza</i>		<i>West Bank</i>		Occupied Territories		Israel		Total	
	<i>Total</i>	<i>Data Set</i>	<i>Total</i>	<i>Data Set</i>	Total	Data Set	Total	Data Set	Total	Data Set
Palestinians killed by Israeli security forces	3000	2971	1791	1733	4791	4704	69	57	4860	4761
Palestinians killed by Israeli civilians	4	4	41	37	45	41	2	2	47	43
Israeli civilians killed by Palestinians	39	39	198	196	237	235	490	490	727	725
Israeli security force personnel killed by Palestinians	97	96	148	147	245	243	90	90	335	333
Foreign citizens killed by Palestinians	10	10	7	5	17	15	37	37	54	52
Foreign citizens killed by Israeli security forces	4	4	6	6	10	10	0	0	10	10
Palestinians killed by Palestinians	458	449	135	107	593	556	0	0	593	556

Table 1

Identifying noncombatants

Attempting to devise a broadly accepted definition of a non-combatant in this conflict is highly problematic. Whereas many of Israel's critics tend to argue that it engages in indiscriminate assaults on civilians; many of Israel's defenders, in contrast, tend to argue that its attacks have been measured, proportionate, solely in self-defense, and have made every reasonable effort to limit fatalities among noncombatants. With such diametrically opposed views as to the nature of the fatalities, it is difficult to reach a

common agreement on a subjective determination of the combatant status of most of the fatalities.

Thus, given the difficulties in distinguishing between Palestinian fighters and civilians on an individual basis, this paper aims to find suitable proxies to determine the approximate and appropriate distribution of Palestinian civilian and combatant fatalities. These proxies are to be found in exploring the distribution of all deaths across age groups and sex (i.e. what demographers refer to as a disaggregation of mortality).⁸ This analysis will identify demographic profiles which most likely contain the fewest combatants and extrapolate from those demographic profiles what portion of Palestinian fatalities are likely non-combatants.

As stated, this paper uses the data provided in B'Tselem's *Statistics: Fatalities* database for fatalities from 29 September 2000 to December 2008. In order to effectively compare the mortality, only those fatalities included in B'Tselem's database⁹ who were killed by Israeli security forces in the West Bank and Gaza for which age and sex has been identified.¹⁰ These exceptions are assumed to be too marginal to affect the estimates in this paper.¹¹

If a conflict involves truly indiscriminate assaults on civilians the result of such assaults should be a mortality distribution that is significantly representative of the

⁸ Alexander A. Weinreb and Avi Weinreb, "Has Israel Used Indiscriminate Force?" *Middle East Quarterly* IX:3 (Summer 2002), <http://www.meforum.org/article/175> (accessed 9 March 2008).

⁹ Thus excluding, for example, "Palestinians killed by an explosive device that they set or was on their person," "Palestinian citizens of Israel killed within Israel by the Israeli Police," "Jewish Israeli citizen[s] killed within Israel by a Palestinian-Israeli citizen[s]." See note 2, B'Tselem, *Statistics: Fatalities*,

¹⁰ Of the 4791 Palestinian conflict fatalities in the West Bank and Gaza caused directly by Israeli security forces recorded by B'Tselem, there are 4704 that have both their age and sex identified, and 87 (1.82%) for which data on their age and/or sex are not fully identified.

¹¹ See Weinreb, note 9: "It is normal for data sets to include some error, but it has to be significant in scale or biased in its distribution to affect results in the type of simple bivariate analysis that we conduct here. These issues are discussed extensively by Richard A. Zeller and Edward G. Carmines, *Measurement in the Social Sciences: The Link between Theory and Data* (New York: Cambridge University Press, 1980)."

overall population. If Israeli security forces engaged exclusively in indiscriminate assaults on civilians and given Israel's massive military superiority over the Palestinians in the West Bank and Gaza, there should be a rough balance (i.e. random distribution) between males and females amongst these fatalities. Although it is disputed whether Israel engages in indiscriminate assaults on civilians (or a "disproportional" military response that results in a failure to distinguish between uninvolved civilians and Palestinians who took part in the fighting), there is little dispute that most Palestinian attacks on Israeli civilians are indiscriminate assaults. Thus, as expected, Israeli civilian fatalities amongst all age groups display a high degree of equal (i.e. random) distribution by sex with 46% of all Israeli civilian fatalities (exclusive of the West Bank and Gaza) being female (see figures 7 and 8). Palestinian fatalities, in contrast, only exhibit any sort of sex balance in the youngest (under 10 years) and oldest (over 75 years) age cohorts, with an extreme of only 1% female in the 20 to 24 years age cohort (see figures 9 and 10).

As such, the analytical model employed in this paper compares the demographic profile (age and sex structure) of the Palestinian population of the West Bank and Gaza to the demographic profile of Palestinians killed by Israeli security forces in the West Bank and Gaza. This analytical model requires the incorporation of two assumptions to compare the two demographic profiles and to analyze the latter profile. First, that indiscriminate killing should result in fatalities whose demographic profile is representative of the overall demographic profile of the population. Second, that certain profiles within the overall dataset (e.g. females and/or young children) are composed exclusively of non-combatants.

These assumptions are employed because of both how the conflict is subjectively portrayed and objective circumstances of the conflict. Subjectively, both in typical media and NGO portrayals and, more germane to this analysis, by the organisations which use B'Tselem's analysis as data in their own reports. Typically, B'Tselem and those employing B'Tselem's analysis characterize Israel's killing of Palestinians as often being indiscriminate or, at least, resulting in significant indiscriminate killing (e.g. "civilian bystanders") and that Palestinian women and children and near-uniformly non-combatants. Objectively, certain circumstances of the conflict also lend credence to the employment of those assumptions such as the highly destructive, often with an area of effect, ordinance employed by Israel and the incapacity of young children to engage in combat.

Nevertheless, these assumptions have the potential to be distorting depending on the degree to which Israeli killings, in their effect, are discriminating and the degree to which certain sub-profiles consist of non-combatants. It is most probable that the first assumption would have a "deflationary" effect on the estimated total number of non-combatant fatalities as it is typically posited that women and young children are not as likely to be present in locales where Israeli security forces are engaging in operations. While, the second assumption will most probably have an "inflationary" effect on the estimated total number of non-combatant fatalities as it is unlikely that *all* women and young children are non-combatants. The question then remains as to the relative effect of these two distorting assumptions of the model. Such determinations largely remain subjective and rest on the conjectures of those individuals analyzing the situation.

However a demographic analysis disaggregated for both age and sex can provide a significant potential indication of their effect.

An Upper Limit: Males aged 45 to 54 years of age

The demographic profile of males between 45-54 years of age can be analyzed in an effort to place an upper limit on the percentage of non-combat fatalities. This demographic profile consists of a still active male population, and thus not likely to be significantly subject to the distorting effects of not being present in areas where Israeli security forces engage in operations; yet as an active male demographic profile would likely have significant fatalities who are combatants. By extrapolating fatalities from the demographic profile of males between 45 and 54 years of age, one can remove the “deflationary” first assumption. Thus, extrapolating non-combatant fatalities from this demographic profile should neutralize the deflationary effects of the first assumption, but likely to increase the inflationary effects of the second assumption (of the 121 fatalities in this demographic profile, B’Tselem classifies 23 as unknown, 13 as combatants, and 85 as non-combatants; that is 13% as combatants of those classified as either combatants or non-combatants).

This demographic profile represents 5.5% of the total male population, but only 2.7% of the total male fatalities. From this extrapolation – which should be viewed as a considerably inflated due to the likely significant presence of combatants – only 49% of the total number of Palestinian fatalities are of those “who did not take part in the hostilities.” If this is recalculated based upon the relative percentage of that demographic

profile that are identified as non-combatants by B'Tselem, the non-combatant percentage drops to under 40%.

male fatalities 45 to 54 years of age		% male Palestinian population 45 to 54 years of age of the total male population		total extrapolated male fatalities	% total male fatalities
121	÷	5.5%	=	2205	49%

Table 1

A median: Females of all ages

The demographic profile of females provides a straightforward to understand, if somewhat simplistic, analysis of the percentage of non-combat fatalities. If one assumes that *every* Palestinian female fatality was a civilian and that females make up only one in four of the total number of civilian fatalities (that is, a significantly lower proportion than the cohort of Israeli civilian fatalities with the *largest* proportional sex disparity – ages 30 to 34) (see figure 8), one can extrapolate a total of 984 Palestinian civilian fatalities. Employing more randomly distributed assumptions of 37.5% or 50%, the number of civilian fatalities falls well below those of Israeli fatalities of 727.

female fatalities		% of total civilian fatalities		total fatalities	% total fatalities
246	÷	25%	=	984	21%
246	÷	37.5%	=	656	14%
246	÷	50%	=	492	10%

Table 2

A Lower Limit: Children under 10 years of age

The other demographic characteristic that can be used that can be used as a proxy to extrapolate total fatalities is disaggregating mortality by age. Overlaying Israeli

civilian fatalities by age cohort over the total Israeli population¹² produces a high degree of coincidence except for the age cohorts under the age of 15 years (see figures 13, 15, and 17). This disproportionality can be explained by the nature of Palestinian attacks against Israeli civilians which tend not to have a lesser affect on those age cohorts that are less represented in relatively unprotected public spaces.

However, similarly overlaying Palestinian fatalities by age cohort over the total Palestinian population produces no such coincidence (see figures 14, 16, and 18). An analysis of Palestinian child fatalities indicates a divergence between male and female fatalities commences around eight years of age (see figures 11 and 12), thus indicating that Palestinian children begin to take “part in the hostilities” in perceptible numbers as young as age eight, which is consistent with the literature on child soldiers.¹³ Therefore one can use the age cohort of children under the age of 8 years of age as a sample to extrapolate the total number of civilian fatalities. However, as the available demographic data for the overall Palestinian population is only provide in 5 year cohorts, the assumption that *every* fatality under the age of 10 years is a civilian will be used to extrapolate the total number of civilian fatalities. As the Palestinian population of the West Bank and Gaza under the age of 10 is estimated to be 33% of the total population as of 2005¹⁴ (see figures 14, 16, and 18), then the total number of Palestinian non-combatant fatalities is 348 total fatalities.

¹² Central Bureau of Statistics [Israel], "Base Population, by population group, sex and age," *Projections of Israel's Population until 2025* (Jerusalem: Central Bureau of Statistics, December 2004)., <http://www.cbs.gov.il/www/publications/popul2005/pdf/t14.pdf> (Accessed 3 March 2008).

¹³ See also Coalition to Stop the Use of Child Soldiers, *The Use of Children as Soldiers in Africa: a country analysis of child recruitment and participation in armed conflict*, 1999.

¹⁴ Ayesha Al-Rifai and Farzaneh Roudi-Fahimi. "A First Glimpse at the 2004 Palestinian Demographic and Health Survey." Population Reference Bureau." Population Reference Bureau. <http://www.prb.org/Articles/2006/AFirstGlimpseatthe2004PalestinianDemographicandHealthSurvey.aspx> (Accessed 3 March 2008); Palestinian Central Bureau of Statistics. "Population by Age Groups in Years,

fatalities under 10 years of age		% population under the age of 10 of the total population		total fatalities	% total fatalities
114	÷	33%	=	348	7.4%

Table 3

However, as stated above, the data indicates that Palestinians begin to engage in hostilities prior to the age of 10. Thus, in order to develop a less distorted proxy to define the lower limit of civilian fatalities, the two proxies can be combined and thus extrapolate total fatalities from the fatalities of Palestinian girls under the age of 10, the result is a total number of 311 Palestinian non-combatant fatalities. From this extrapolation, only 6.8% of the total number of Palestinian fatalities are civilians.

female fatalities under 10 years of age		% female Palestinian population under the age of 10 of the total population		total fatalities	% total fatalities
50	÷	16%	=	311	6.6%

Table 4

Case Studies

Women

The major critique of the analytical model outlined in this paper is that the lack of anything resembling a random distribution of Palestinian fatalities by age and sex can be explained by various factors that would account for such distortions. The most common explanation to account for the lack of random distribution of the fatalities is that males are significantly more likely to be civilian fatalities than women because of the nature of Palestinian society which leads to a lessened presence of women in public areas where

Region and Sex," Population and Housing Census, 1997.
http://www.pcbs.gov.ps/Portals/_pcbs/phc_97/phc_t2.aspx (Accessed 3 March 2008).

Israeli operations typically occur. However, such explanations rely on entirely subjective perceptions of Palestinian society and are never presented with empirical data which would indicate to what degree that is that case. Further, the demographic data indicates that such assumptions are highly flawed.

First, it is posited that female fatalities are strikingly low because “anyone who has visited a Palestinian city like Gaza knows that there are very few women on the streets.”¹⁵ However, this is in contradiction with B’Tselem’s demographic data. This belief that there are very few women on the streets in Gaza is based upon the view that Palestinian society (particularly Muslim Palestinian society) is highly conservative and women are kept out of public areas. If this explained the low level of female fatalities than one would expect the more liberal West Bank to have a higher proportion of female fatalities. Yet, the opposite is true, the proportion of female fatalities is higher, significantly so, in Gaza as compared to the West Bank (6% female in the Gaza Strip versus 4% in the West Bank).

Second, B’Tselem’s data indicates the overwhelming majority of those killed in their homes are also male, at a ratio of approximately 4:1. Again, if the reason that women are dying in proportionally low numbers because “there are few women on the streets” then one could expect a high degree of equal (i.e. random) distribution amongst fatalities of those who died in their homes, or even a higher proportion of women.

Instead, the degree to which the conjectures about the ratio of women on the street can be tested is by comparing the relative number of female fatalities disaggregated by age to the overall demographic profile by age of the female Palestinian population. Such

¹⁵ Private correspondence with B’Tselem via Henrik Urdal, Associate Editor, *Journal of Peace Research*, 12 September 2008

an analysis produces either a high coincidence for female fatalities under the age of 30 years with a significant “bump” for fatalities over 30 years of age (with a scale of 1:10000) or a high coincidence for female fatalities over the age of 35 years with a significant “depression” for fatalities under 35 years of age (with a scale of 1:4000) (see figure 15). If one posits that the lack of coincidence between female fatalities and the overall demographic profile is caused by fewer women under the age of 35 years being present in public areas thus helping to control the distorting effect of this analytical model, than one can extrapolate total Palestinian fatalities to be 19%.

female fatalities 35 years of age and older		% female Palestinian population 35 years of age and older of the total population		total extrapolated fatalities	% total fatalities
94	÷	11%	=	890	19%

Table 5

Civilian bystanders to targeted killings

In the data set, there are 153 fatalities that B’Tselem classifies as “civilian bystanders to targeted killings,” of those 36 are female and 117 are male (see figure 19). When those fatalities are disaggregated for age and sex, a high degree of relative coincidence between the female fatalities and the overall demographic profile of the female population appears (see figure 23), whereas the male fatalities have a high degree of relative coincidence to the overall male fatalities, only for the youngest and oldest age cohorts, with a demographic “hump” for the ages of, particularly, 10 to 34 years (see figure 21).

Operation Warm Winter

From 27 February to 3 March 2008, Israel engaged in intense military operations against targets in the Gaza strip for which Israel was widely condemned for this assault, including accusations of a “disproportionate use of force” by Amnesty International, the European Union Presidency, the United Nations High Commissioner for Human Rights, and the United Nations General-Secretary. For this conflict, the available data set available from B’Tselem’s database contains 119 Palestinian fatalities, of which only 9 were female and only 3 were under the age of 10; numbers are too low to have significant confidence in any extrapolation. Nevertheless, extrapolating from these fatalities, the predicted number of civilian fatalities based on the model above would be between 8% and 15%.

Assault on Gaza, 27 February to 3 March, 2008

	total fatalities		% of total fatalities		extrapolated number of civilian fatalities	extrapolated percentage of total fatalities
female	9	÷	7.6%	=	18	15.2%
under the age of 10 years	3	÷	2.5%	=	9	7.5%

Table 6

“Took Part in the Fighting:” B’Tselem’s methodology in determining civilian deaths

This demographic analysis produces results which are highly incongruent with the subjective determination of fatalities in B’Tselem’s analysis of its own data, as B’Tselem’s determination of civilian fatalities is approximately 57% of total fatalities, yet a demographic analysis produces a likely median of 19% and a range with an absolute maximum of 49%; significantly below B’Tselem’s determination. As such, this discrepancy begs an analysis of B’Tselem’s methodology in assigning Palestinian

fatalities to their categories,¹⁶ which, in turn, reveals considerably apparent methodological flaws in their classifications.

B'Tselem's manner of distinguishing between civilian and military fatalities amongst Israelis is quite simple, based simply upon whether they are wearing a uniform. Although such a simplistic approach does result in the rather odd situation of off-duty Israeli soldiers killed in a suicide bombing while riding the bus being classified as "combatants" (and the Palestinian suicide-bomber conducting the bombing being excluded from the list of Palestinian combatants), the methodology is clear and comprehensible. However, "it is considerably more difficult to distinguish precisely who amongst those Palestinians killed were civilians."¹⁷ Palestinian fighters typically do not wear "a fixed distinctive sign recognizable at a distance"¹⁸ and often operate from civilian areas. Thus determining whom amongst the fatalities is a civilian and who is a fighter is not a straightforward task and there can be little absolute certainty in such determinations. Of the 4704 Palestinians fatalities from Israeli security forces in the Occupied Territories for which appropriate demographic data is available, B'Tselem is confident in declaring 2182 of them occurring when the individual was not taking "part in the hostilities" at the time of the incident resulting in their death, 1693 of them occurring when the individual was "taking part in the hostilities" and on a further 829, B'Tselem reserves classifying the individual as to whether s/he was engaged in hostilities ("not known if there were

¹⁶ Principally, (1) "Palestinians who took part in the hostilities and were killed by Israeli security forces," (2) "Palestinians who took part in the hostilities and were killed by Israeli security forces," and (3) "Palestinians who were killed by Israeli security forces and it is not known if they were taking part in the hostilities

¹⁷ OCHA, p.2.

¹⁸ Article 4(A)(1)(b), *Geneva Convention relative to the Treatment of Prisoners of War* (3rd Geneva Convention), available at <http://www.unhcr.ch/html/menu3/b/91.htm> (accessed 3 March 2008).

taking part in the hostilities”). B’Tselem publishes the following “clarification”

alongside data on fatalities:

Regarding Palestinians who were killed, the data state whether they took part in the fighting, in the event that B’Tselem has this information. In some cases, the data provide a short description of the circumstances in which the individual was killed.

B’Tselem emphasizes that the listing of a person as a civilian, or having not participated in the fighting, or the inclusion of any other details regarding the cause of death, does not indicate that the person or entity that killed the individual violated the law, or that the deceased was innocent, or that any other legal or moral conclusion can be drawn from the facts. The lists of fatalities relate to persons killed during incidents related to the al-Aqsa intifada, and are to be viewed solely in that light¹⁹

Thus, B’Tselem is clear that those it categorizes as being engaged in hostilities “took part in the fighting” at the time of their death and, by corollary, those that it categorizes as *not* being engaged in hostilities are thus *not* “[taking] part in the fighting.” However, declaring an individual as having “[taken] part in the fighting” without any finer definition is too vague to be of considerable utility in understanding or verifying those determinations.

B’Tselem has published a detailed analyzes of its methodology for a few of the fatalities listed in its database, such as the four that appear in *Take No Prisoners: The Fatal Shooting of Palestinians during “Arrest Operations,”*²⁰ These fatalities appear in the *Statistics: Fatalities* database with clear, largely uncontroversial “additional information” that indicates strongly that they were civilians. However, such reports are of little value in determining how B’Tselem classifies the overwhelming majority of

¹⁹ B’Tselem, “Clarifications regarding data on fatalities,” *Statistics: Fatalities*, available at: http://www.btselem.org/english/statistics/Casualties_Clarifications.asp

²⁰ B’Tselem, *Take No Prisoners: The Fatal Shooting of Palestinians by Israeli Security Forces during “Arrest Operations”* (May 2005). B’Tselem. http://www.btselem.org/Download/200505_Take_No_Prisoners_Eng.pdf (accessed 8 December 2008).

Palestinian fatalities, as the excellent descriptions of methodology used in determining the nature of these fatalities has not seemed to be replicated for the overwhelming majority of the fatalities which are classified as either civilians or fighters in B'Tselem's database. As such, the clarity of the short descriptions for the highlighted case studies tends to cast further suspicion, not less, on B'Tselem's classification of thousands of other fatalities because B'Tselem does not provide any clear definitions as to what generally constitutes 'taking part' in the fighting.

Most of the fatalities recorded by B'Tselem are accompanied by a brief "short description of the circumstances in which the individual was killed." This short description alone cannot be the sole basis up which a fatality is categorized as being either "[taking] part in fighting" or not "[taking] part in fight" as both categories contain numerous entries without any such description.²¹ However, it is the only data B'Tselem makes available to justify their classifications. Even when a "short description" is provided, often it is merely descriptive of the manner of death without providing any broader context of the circumstances of the individual's death that would be useful in determining whether the individual had taken part in the fighting at the time of his death. This is the case for the majority of not only Palestinian deaths that could not be categorized as either being a combatant or a non-combatant, but also the majority of those deaths categorized as non-combatants. Descriptions of this sort for deaths categorized as civilians include the context of where the person died, such as:

- "Found dead in a building in Ramallah"²²

²¹ 70 of 1719 of those categorized as engaged in hostilities and 167 of 2236 of those categorized as not engaged in hostilities

²² For example, Khaled Fathi Mahmoud 'Awad

- “Killed at the cemetery in Khan Yunis”²³
- “Killed 20 meters from his home”²⁴

...or the physical cause of death, such as:

- “Injured in his neck”²⁵
- “Shot in his heart”²⁶
- “Killed by a bullet that hit him in the head”²⁷

...or by whom, such as:

- “Killed by an IDF soldier from close range”²⁸
- “Killed by an undercover IDF unit”²⁹
- “Killed by a Border Police undercover unit”³⁰

33 year-old, killed on 30.03.2002 in Ramallah, by gunfire. Did not participate in hostilities when killed. Additional information: A member of the Palestinian security forces. Found dead in a building in Ramallah (accessed 3 March 2008).

²³ For example, Fadel Muhammad Abu 'Obeidah

25 year-old resident of Khan Yunis, killed on 12.12.2001 in Khan Yunis, by gunfire, from a helicopter. Did not participate in hostilities when killed. Additional information: Killed at the cemetery in Khan Yunis. (accessed 3 March 2008).

²⁴ For example, Anis Salem Jadu'a Abu 'Awad

11 year-old resident of Rafah, killed on 03.08.2006 in Rafah, by gunfire, from a helicopter. Did not participate in hostilities when killed. Additional information: Killed 20 meters from his home. (accessed 3 March 2008).

²⁵ For example, 'Abdallah al-Ashab

75 year-old, killed on 04.03.2003 next to Netzarim, Deir al-Balah district, by gunfire. Did not participate in hostilities when killed. Additional information: Injured in his neck. (accessed 3 March 2008).

²⁶ For example, Rohi Hazem Rohi Schumann

21 year-old resident of Nablus, killed on 03.01.2004 in Nablus, by gunfire. Did not participate in hostilities when killed. Additional information: Shot in his heart. (accessed 3 March 2008).

²⁷ For example, Seif a-Din Suleiman Ni'amat al-Barahmeh

13 year-old resident of Rafah Refugee Camp, injured on 09.08.2004 in Rafah Refugee Camp, by gunfire, and died on 15.08.2004. Did not participate in hostilities when killed. Additional information: Killed by a bullet that hit him in the head. (accessed 3 March 2008).

²⁸ For example, Ahmad 'Abd a-Razeq 'Abd Rabo Abu Huli

15 year-old resident of Deir al-Balah, killed on 09.02.2001 in Kfar Darom, Deir al-Balah district, by gunfire. Did not participate in hostilities when killed. Additional information: Killed by an IDF soldier from close range. (accessed 3 March 2008).

²⁹ For example, Ibrahim 'Ata 'Abd a-Rahim Mahmoud

30 year-old resident of Jenin, killed on 13.09.2004 in Jenin, by gunfire. Did not participate in hostilities when killed. Additional information: Killed by an undercover IDF unit. (accessed 3 March 2008).

³⁰ For example, Maher Harb 'Alian Abu Snineh

23 year-old resident of Qalqiliya, killed on 26.01.2005 in Qalqiliya, by gunfire. Did not participate in hostilities when killed. Additional information: Wanted by Israel, killed by a Border Police undercover unit wanting to arrest him while he was in his car in the city center. Two other persons were also hit by the gunfire. (accessed 3 March 2008).

As such, the majority of fatalities categorized as “not tak[ing] part in the hostilities” are classified as such without any description of the events that are useful or substantive in determining whether the individual was a combatant or a non-combatant.

Yet, even when a more substantive context and description is provided, B’Tselem’s decision to classify a fatality as “not tak[ing] part in the hostilities” can be suspect. To be clear, there are a number of “short descriptions” that unequivocally reveal that the individual was not taking part in the fighting at the time of their death, with descriptions such as:

- “Died 12 hours after birth, as a result of shrapnel that penetrated to the mother's womb”³¹
- “Killed by a concrete block that fell on his head while he was asleep”³²
- “Killed by an army tank that mistakenly fired at the car he was in with his family”³³

However, such unequivocal descriptions make up only a very small percentage of the total fatalities of those that did “not take part in the hostilities.” Instead many of the “short descriptions” of the deaths described as non-combatant fatalities indicate that they should be categorized as at least “unknown” as to whether the individual was a combatant and in some cases even as “taking part in the fighting.”

³¹ For example, Majzarah Sha'ban 'Abd al-Qader Ahmad Under 1 year-old resident of Khan Yunis, killed on 21.06.2006 in Khan Yunis, by gunfire, from a helicopter, during the course of a targeted killing. Additional information: Died 12 hours after birth, as a result of shrapnel that penetrated to the mother's womb. (accessed 3 March 2008).

³² For example, Husam Muhammad 'Ali Abu Zarkeh 16 year-old resident of Khan Yunis, injured on 30.08.2004 in Khan Yunis, by house demolition, and died on 04.09.2004. Did not participate in hostilities when killed. Additional information: Killed by a concrete block that fell on his head while he was asleep, as a result of an IDF action to blow nearby tunnels used to smuggle weapons. (accessed 3 March 2008).

³³ For example, Mahmoud Jawdat Sharif Qabha (accessed 3 March 2008). 3 year-old resident of Barta'a a-Sharqiya, Jenin district, killed on 25.07.2003 next to Barta'a a-Sharqiya, Jenin district, by gunfire. Did not participate in hostilities when killed. Additional information: Killed by an army tank that mistakenly fired at the car he was in with his family, while they were waiting to cross a checkpoint. (accessed 3 March 2008).

First, there are a number of those fatalities who did “not take part in the hostilities” where the circumstances and/or the actions the individual was undertaking indicate that the individual could have quite possibly been engaged in hostilities and should not be easily classified as a having “not take[n] part in the hostilities:”

- “Killed in a ‘metal factory which was blown up’”³⁴
- “Killed by IDF gunfire after he tried to bypass a checkpoint”³⁵
- “Was killed together with another Palestinian when they tried to infiltrate greenhouses in Gush Katif.”³⁶

Second, there are also a number of “civilian” fatalities where the circumstances and/or the actions the individual was undertaking combined with the position of the individual indicate that the individual likely – but not certainly – could have been engaged in hostilities and should definitely not be easily classified as a non-combatant:

- “Palestinian police officer. Killed while was in his post near the perimeter fence”³⁷
- “ Hamas naval police officer, killed when the police were bombed in response to mortar fire at Israel”³⁸

³⁴ For example, Zuheir Hussein Qawareh
25 year-old resident of Khan Yunis, killed on 12.03.2002 in Khan Yunis, by gunfire, from a helicopter. Did not participate in hostilities when killed. Additional information: Four Palestinians were killed in this incident, including three members of a family that owned the metal factory which was blown up. (accessed 3 March 2008).

³⁵ For example, Jamal Yusef Da'ud 'Arar ('Odeh)
37 year-old resident of Kafr Thulth, Qalqiliya district, killed on 10.07.2002 in Habla, Qalqiliya district, by gunfire. Did not participate in hostilities when killed. Additional information: Killed by IDF gunfire after he tried to bypass a checkpoint. He died from his wounds two days after the incident. (accessed 3 March 2008).

³⁶ For example, Safuat 'Issam Kasta
16 year-old resident of Tall a-Sultan Camp, Rafah district, killed on 24.01.2001 in Rafah, by gunfire. Did not participate in hostilities when killed. Additional information: Was killed together with another Palestinian when they tried to infiltrate greenhouses in Gush Katif. (accessed 3 March 2008).

³⁷ For example, Khader Hamdi 'Abdallah Qassem
24 year-old, killed on 07.06.2006 in Gaza city, by gunfire, from a helicopter. Did not participate in hostilities when killed. Additional information: Palestinian police officer. Killed while was in his post near the perimeter fence. (accessed 3 March 2008).

³⁸ For example, Rami Hussein Sa'id Abu a-Rus

- “A member of force 17. Killed during an army incursion into the area”³⁹

Third, there are also a number of non-combatant fatalities in which the descriptions of the circumstances of their death can come only from interviews with the fatality’s friends and/or family and cannot be verified by other sources or physical evidence:

- “Killed near his house while on his way home from prayers”⁴⁰
- “Killed on his way home from the gas station”⁴¹
- “Killed by IDF sniper gunfire while on his way to the grocery store”⁴²

The third above example is particularly telling of flawed methodology as B'Tselem either did not include the IDF’s explanation for the individual’s death or did not even attempt to find out what it was.

Fourth, there are also a number of “civilian” fatalities in which the individual killed may or may not have been engaged in hostilities, but was evidently armed:

- “Killed at the entrance to his cousin's house when soldiers were chasing him. He was armed but did not open fire.”⁴³

23 year-old resident of Khan Yunis, killed on 28.11.2007 in Khan Yunis, by gunfire, from a helicopter. Did not participate in hostilities when killed. Additional information: Hamas naval police officer, killed when the police were bombed in response to mortar fire at Israel. (accessed 3 March 2008).

³⁹ For example, Iyad Suleiman Yihya Abu al-Jidyan

30 year-old resident of Jabalya Refugee Camp, North Gaza district, killed on 04.11.2006 in Jabalya, North Gaza district, by gunfire, from a helicopter. Did not participate in hostilities when killed. Additional information: A member of force 17. Killed during an army incursion into the area. (accessed 3 March 2008).

⁴⁰ For example, 'Ali Muhammad Salim Abu Namus

18 year-old resident of Khan Yunis, killed on 18.05.2003 in Khan Yunis, by gunfire. Did not participate in hostilities when killed. Additional information: Killed near his house while on his way home from prayers. (accessed 3 March 2008).

⁴¹ For example, Ahmad 'Abd al-hadi Ahmad Nazzal

27 year-old resident of Qabatiya, Jenin district, killed on 13.02.2004 next to Jenin, by gunfire. Did not participate in hostilities when killed. Additional information: Killed on his way home from the gas station near his house by gunfire aimed at his car on the Jenin-Nablus road. (accessed 3 March 2008).

⁴² For example, 'Abd a-Salam Mahmoud Muhammad Abu 'Iyada

37 year-old resident of Rafah, injured on 18.05.2004 in Rafah, by gunfire, and died on 25.06.2004. Did not participate in hostilities when killed. Additional information: Killed by IDF sniper gunfire while on his way to the grocery store. (accessed 3 March 2008).

⁴³ For example, Ahmad 'Abd a-Latif

- “Wanted by Israel. Killed in an IDF action to capture him. He was armed.”⁴⁴
- “Killed while walking armed during an IDF operation in the southern Gaza Strip.”⁴⁵

Carrying arms does not necessarily mean that individual was engaging in hostilities at the time that they are killed. However, for example, the OCHA *Fatalities* report which directly cites B’Tselem’s data⁴⁶ unquestioningly accepted that all those not engaged in direct hostilities at the time of their deaths were “civilians” even though the report itself emphasizes that “persons protected under occupation law are considered as civilians except for that period of time that they may be actively engaged in hostilities *or carrying arms*.”⁴⁷

Finally there are also a couple of “civilian” fatalities which contain descriptions of individuals who were clearly *engaged in armed fighting*:

- “Killed by IDF gunfire during an incident involving stone-throwing and hurling of petrol bombs.”⁴⁸
- “*Killed before he managed to throw a petrol bomb he was holding*”⁴⁹

25 year-old resident of Hebron, killed on 16.09.2003 in Hebron, by gunfire, from a tank. Did not participate in hostilities when killed. Additional information: Killed at the entrance to his cousin's house when soldiers were chasing him. He was armed but did not open fire. (accessed 3 March 2008).

⁴⁴ For example, Ibrahim Muhammad Fayed 'Issa

47 year-old resident of Qalqiliya, killed on 28.10.2004 in Qalqiliya, by gunfire. Did not participate in hostilities when killed. Additional information: Wanted by Israel. Killed in an IDF action to capture him. He was armed. (accessed 3 March 2008).

⁴⁵ For example, Ibrahim Suleiman Muhammad Irmilat

15 year-old resident of Rafah, killed on 05.08.2006 in Rafah, by gunfire, from a tank. Did not participate in hostilities when killed. Additional information: Killed while walking armed during an IDF operation in the southern Gaza Strip. (accessed 3 March 2008).

⁴⁶ Office for the Coordination of Humanitarian Affairs (OCHA), *Israeli-Palestinian Fatalities Since 2000 - Key Trends*, 31 August 2007, p. 2, http://www.ochaopt.org/documents/CAS_Aug07.pdf.

⁴⁷ OHCA, p.2, emphasis added

⁴⁸ For example, Tareq Mahmoud 'Abd al-Quader Jadu

20 year-old, killed on 10.01.2003 in A'yda Refugee Camp, Bethlehem district, by gunfire. Did not participate in hostilities when killed. Additional information: Killed by IDF gunfire during an incident involving stone-throwing and hurling of petrol bombs. (accessed 3 March 2008).

⁴⁹ [*emphasis added*] For example, Kifah Khaled 'Obeid

In contrast to the relative ease in which B'Tselem classifies Palestinian fatalities as non-combatant deaths, they are contrarily reticent to categorize Palestinian fatalities as combatant deaths. As there exist a number of descriptions in which the individual seemingly quite clearly “took part in the fighting” at the time of his death:

- “Killed *after he killed his GSS operative on the Haminharot road*”⁵⁰
- “Killed *while transporting ammunition in a truck*”⁵¹
- “Killed at the Erez checkpoint *when he attacked a soldier*”⁵²

An example of the difficulty in judging if someone is a combatant, can be seen in cases where a fatality occurred during an attempt to “infiltrate a greenhouse.” Some cases of such fatalities are described as taking “part in the hostilities,” such as Salem Muhammad Shuhan who was “killed by Border Police gunfire after he infiltrated a greenhouse in the settlement,”⁵³ some cases as “not tak[ing] part in the hostilities,” such as Safuat 'Issam Kasta who was “killed together with another Palestinian when they tried to infiltrate greenhouses in Gush Katif,”⁵⁴ and some cases are simply not classified, such

13 year-old resident of Bethlehem, killed on 25.11.2001 in Bethlehem, by gunfire. Did not participate in hostilities when killed. Additional information: Killed before he managed to throw a petrol bomb he was holding. (accessed 3 March 2008).

⁵⁰ [Emphasis added] For example, Hassan Abu Sha'ira

32 year-old resident of Bethlehem, killed on 14.06.2001 next to Bethlehem, by gunfire. Additional information: Killed after he killed his GSS operative on the Haminharot road. (accessed 3 March 2008).

⁵¹ [Emphasis added] For example, Medhat Ahmad Muhammad al-Halbi

24 year-old resident of Rafah, killed on 04.08.2007 in Rafah, by gunfire, from a helicopter. Additional information: Killed while transporting ammunition in a truck. (accessed 3 March 2008).

⁵² [Emphasis added] For example, Nur a-Din Muhammad Abu Safi

22 year-old resident of a-Shati' Camp, Gaza district, killed on 15.12.2000 in Erez (Industrial Zone), North Gaza district, by gunfire. Additional information: Killed at the Erez checkpoint when he attacked a soldier. (accessed 3 March 2008).

⁵³ For example, Salem Muhammad Shuhan

20 year-old resident of 'Atzmon, Gush Katif district, killed on 29.11.2002 in 'Atzmon, Gush Katif district, by gunfire. Killed when participating in hostilities. Additional information: Killed by Border Police gunfire after he infiltrated a greenhouse in the settlement. (accessed 3 March 2008).

⁵⁴ For example, Safuat 'Issam Kasta

16 year-old resident of Tall a-Sultan Camp, Rafah district, killed on 24.01.2001 in Rafah, by gunfire. Did not participate in hostilities when killed. Additional information: Was killed together with another Palestinian when they tried to infiltrate greenhouses in Gush Katif. (accessed 3 March 2008).

as Nasr Mahmoud Muhammad al-Hasnat who was “killed while trying to infiltrate into the greenhouse of the Kfar Darom settlement”⁵⁵ The methodology employed by B’Tselem seems to be one of success and age: Shuhan was an *adult* who *succeeded* in infiltrating the greenhouse and thus was classified as being “engaged in the fighting,” whereas al-Hasnat was an adult who *failed* to infiltrate the greenhouse and thus was classified as being not known whether he was engaged in the fighting, and finally Katsa was a *16-year-old* so he is seemingly automatically classified by B’Tselem as having “not engaged in the fighting.” Such examples of automatic classifications seemingly abound, particularly in the case of children.

B’Tselem has implicitly admitted that it engages in “automatic” classifications, despite its claims, to the contrary, that:

*B'Tselem's classification is the result of an independent investigation into every person killed. This investigation includes field-research, interviewing any eye-witnesses to the killing, cross-checking our information with statements by the Israeli military and reports in the press, and corresponding with the military about individual cases*⁵⁶.

In a press release issued in the afternoon of 3 March 2008,⁵⁷ after the cessation of hostilities in the Gaza Strip that took place from 27 February to 3 March 2008, B’Tselem claimed that of the “106 Palestinians... killed in the Gaza Strip... at least fifty-four of the dead (twenty-five of them minors) did not take part in the hostilities.” B’Tselem made this ‘determination’ even though the same press released noted that “B’Tselem has not

⁵⁵ For example, Nasr Mahmoud Muhammad al-Hasnat 23 year-old, killed on 15.02.2001 in Kfar Darom, Deir al-Balah district, by gunfire. Additional information: Killed while trying to infiltrate into the greenhouse of the Kfar Darom settlement. (accessed 3 March 2008).

⁵⁶ Private correspondence with B’Tselem via Henrik Urdal, Associate Editor, *Journal of Peace Research*, 12 September 2008

⁵⁷ B’Tselem, "3 March 2008: Contrary to Israel's Chief of Staff, at least half of those killed in Gaza did not take part in the fighting," http://www.btselem.org/english/Press_Releases/20080303.asp

been able to conduct a thorough examination of the events” “given the heavy fighting that only ended this morning.”

In examining the age and sex Palestinian fatalities irrespective of the short descriptions, a number of “biases” appear in B’Tselem’s classification which result in the seemingly automatic classification of the individual having not taken part in hostilities regardless of the actions that individual may have undertaken. For example:

1. Israeli security forces killed similar numbers of 16-year-old (210) and 18-year-old (190) Palestinians in the Occupied Territories. According to B’Tselem, only 14% of the 16-year-olds were combatants, but 48% of the 18-year-olds were combatants. If B’Tselem’s determinations are correct, the IDF is vastly more judicious in targeting only combatants when they are 18-years-old as compared to when they are 16-years-old.
2. There are absolutely no women in the “unknown” category. Only 5 women are categorized as fighters and the remaining 241 are categorized as civilians, B’Tselem seemingly automatically categorizes her as a non-combatant.
3. There are absolutely no children under the age of 12 in the “not known if they were taking part in the hostilities” category, nor are there any children under the age of 13 in the combatant category. Again, B’Tselem seemingly automatically classifies any child under the age of 12 as a non-combatant (even if they were undertaking explicitly hostile acts). Even in the age range of 12 to 15 the classification as a non-combatant is seemingly almost automatic – including the 13-year-old boy, Kifah Khaled 'Obeid – with 15 combatants, 337 non-combatants, and 12 unknowns (a c. 4:93:3 ratio), this contrasts to a general ratio of c.

46:36:18. This vast difference in ratios occurs even though the male to female ratio for this age range is similar to the overall male to female ratio – 95:5 overall versus 93:7 for 12- to 15-year-olds.

4. Whereas every Palestinian “killed in an exchange of gunfire *with Hamas policemen*” is classed as a combatant, no Palestinian “killed in an exchange of gunfire *with Palestinian security forces*” is listed as a combatant.

Conclusions

The demographic profile of Palestinians killed by Israeli security forces in the West Bank and Gaza is extremely non-coincidental with the demographic profile of the overall Palestinian population of the West Bank and Gaza. This discrepancy can only be explain either by Israeli security forces effectively targeting its operations in a manner that disproportionately affect certain demographic profiles or else the Palestinian population effectively shielding certain demographic profiles from the operations by Israeli security forces. For NGOs and other individuals or groups that claim Israeli security forces are killing a high proportion of civilians, such as the 57% of total fatalities claimed by B’Tselem, the explanation most typically given (if at all), is that the Palestinian population effectively shields certain demographic profiles – such as women – from Israeli security operations. However, such contentions are never concomitant with empirical evidence illustrating them. In contrast, this demographic analysis has indicated such contentions to be not merely unsubstantiated, but that the demographic profiles of the fatalities are divergent from assumptions necessary for such contentions. Instead, the demographic profile of those who are fighters is so highly coincidental with the

demographic profile of Palestinians killed by Israeli security forces. As such, the mortality data disaggregated by age and sex strongly indicates that the high number of Palestinian civilian fatalities appears to be greatly exaggerated. Mortality data strongly indicates that of Palestinians killed by Israeli security forces, only 5% to 50% of those fatalities are civilians with a likely midpoint in the range of 19%.

In the Israeli-Palestinian conflict the main NGO that is typically and widely quoted regarding relative fatalities is B'Tselem. Although B'Tselem itself avoids explicit use of the term “indiscriminate killing” in its criticisms of the Israeli security forces, it does refer to an Israeli failure “to distinguish between uninvolved civilians and Palestinians who took part in the fighting,”⁵⁸ which could be used as a brief definition of “indiscriminate killing.”⁵⁹ Further, no comprehensive and consistent methodology for determining the civilian or combatant status of Palestinian fatalities has been ever been released by B'Tselem. What information B'Tselem does provide in their database indicates that they have massive methodological flaws in making accurate determinations of the combatant status of Palestinian conflict fatalities.

Consequently, it appears that there is an incredibly high degree of obfuscating the involvement of Palestinians as combatants. As such, until enough information is provided to allow for public verification of the claims of Palestinian civilian deaths, they need to be viewed with a healthy degree of scepticism. There seems to be a particular

⁵⁸ B'Tselem, Contrary to Israel's Chief of Staff, at least half of those killed in Gaza did not take part in the fighting (Press Release), 3 March 2008. Available from

http://www.btselem.org/english/Press_Releases/20080303.asp

⁵⁹ According to Article 51(4) of Protocol Additional to the Geneva Convention of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1977, “Indiscriminate attacks are (a) those which are not directed at a specific military objective; (b) those which employ a method or means of combat which cannot be directed at a specific military objective; or (c) those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol; and consequently, in such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.” Available from <http://www.unhcr.ch/html/menu3/b/93.htm>.

failing by journalists and human rights NGOs – those groups which centrally report and frame the number and nature of Palestinian fatalities – to be adequately critical and skeptical of claims of Palestinian civilian fatalities.

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FIGURE 1

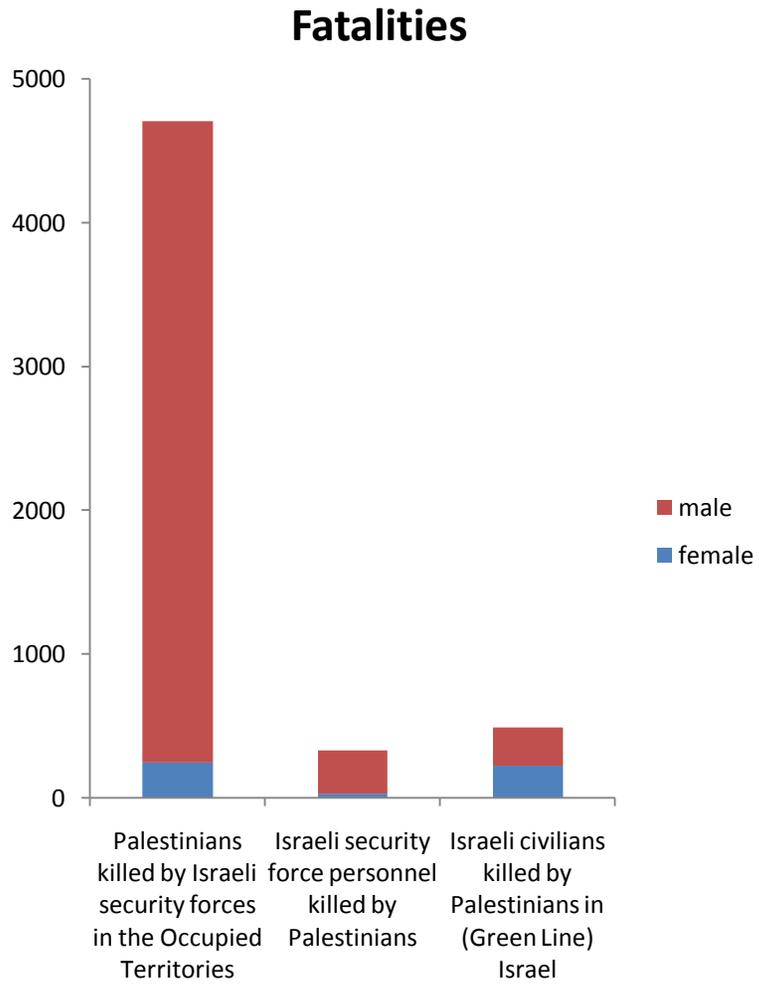


FIGURE 2

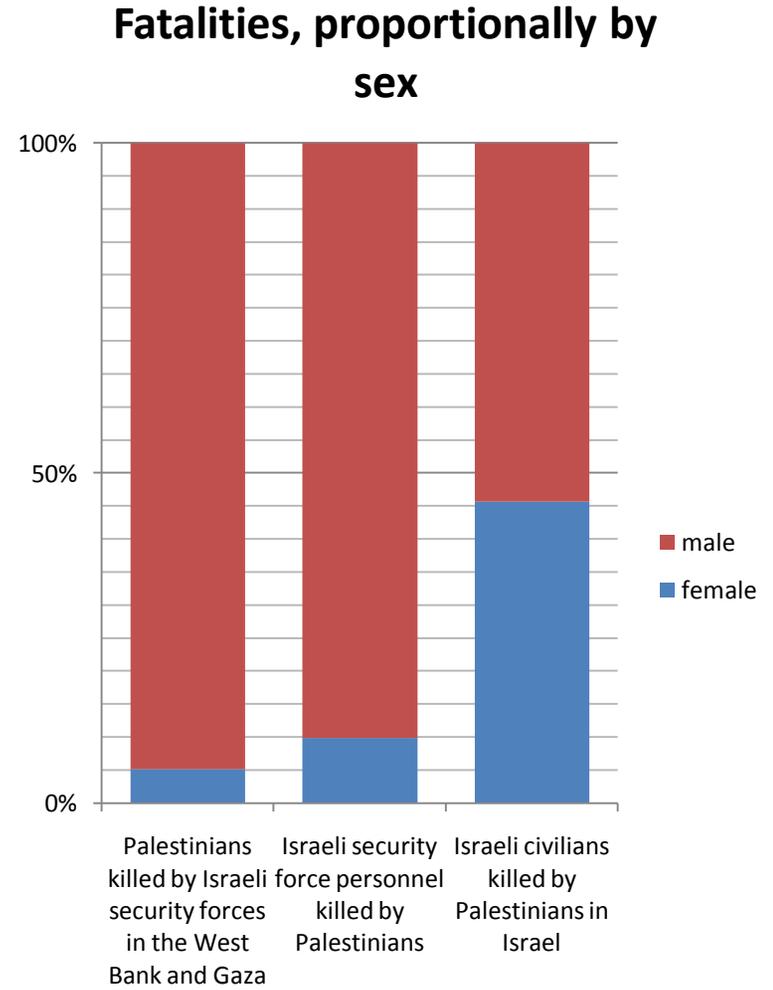


FIGURE 3

B'Tselem's classification of Israeli fatalities

- Fighters: "Israeli security force personnel killed by Palestinians"
- Civilians: "Israeli civilians killed by Palestinians"
- Unknown: Israelis killed by Palestinians and it is not known if they were taking part in the hostilities

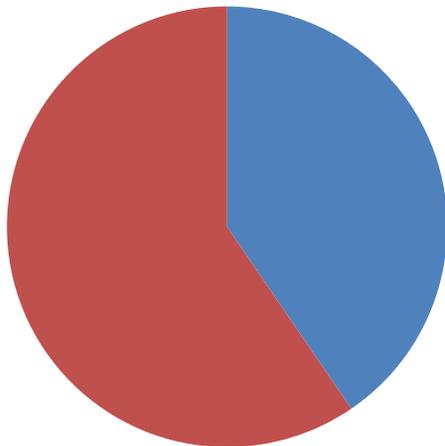


FIGURE 4

B'Tselem's classification of Palestinian fatalities

- Fighters: "Palestinians who took part in the hostilities and were killed by Israeli security forces"
- Civilians: "Palestinians who did not take part in the hostilities and were killed by Israeli security forces (not including the objects of targeted killings)."
- Unknown: "Palestinians who were killed by Israeli security forces and it is not known if they were taking part in the hostilities"

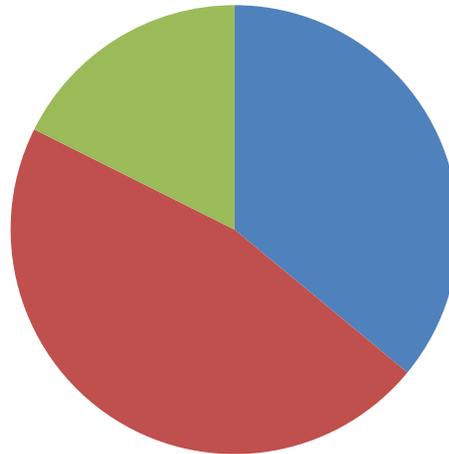


FIGURE 5

OCHA-oPt's classification of Palestinian fatalities

- Fighters: "engaged in hostilities"
- "Civilians"

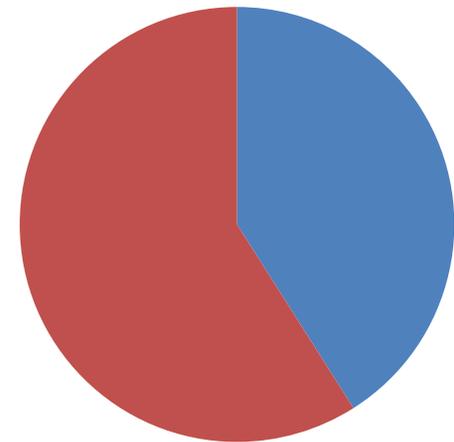


FIGURE 6

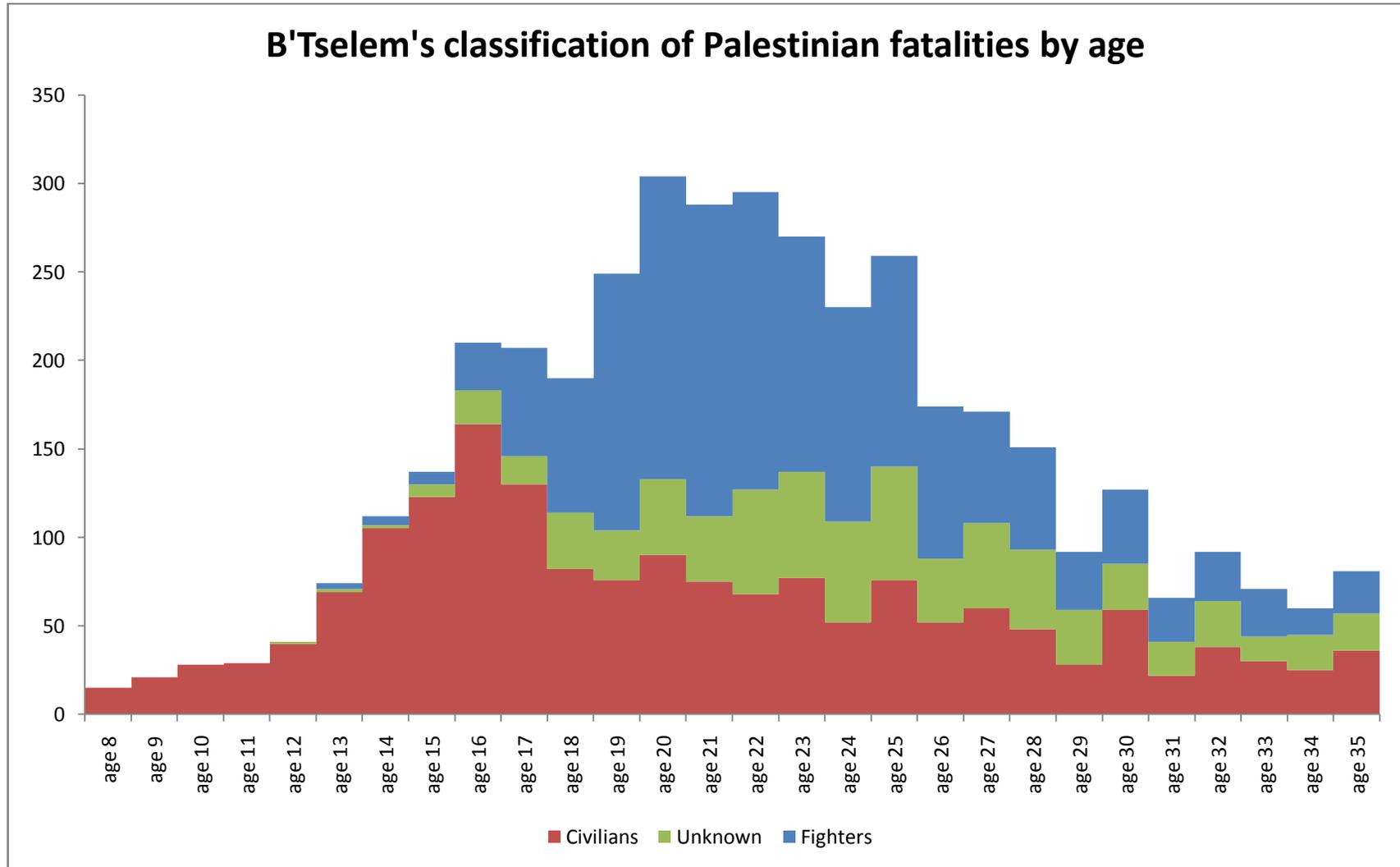


FIGURE 7

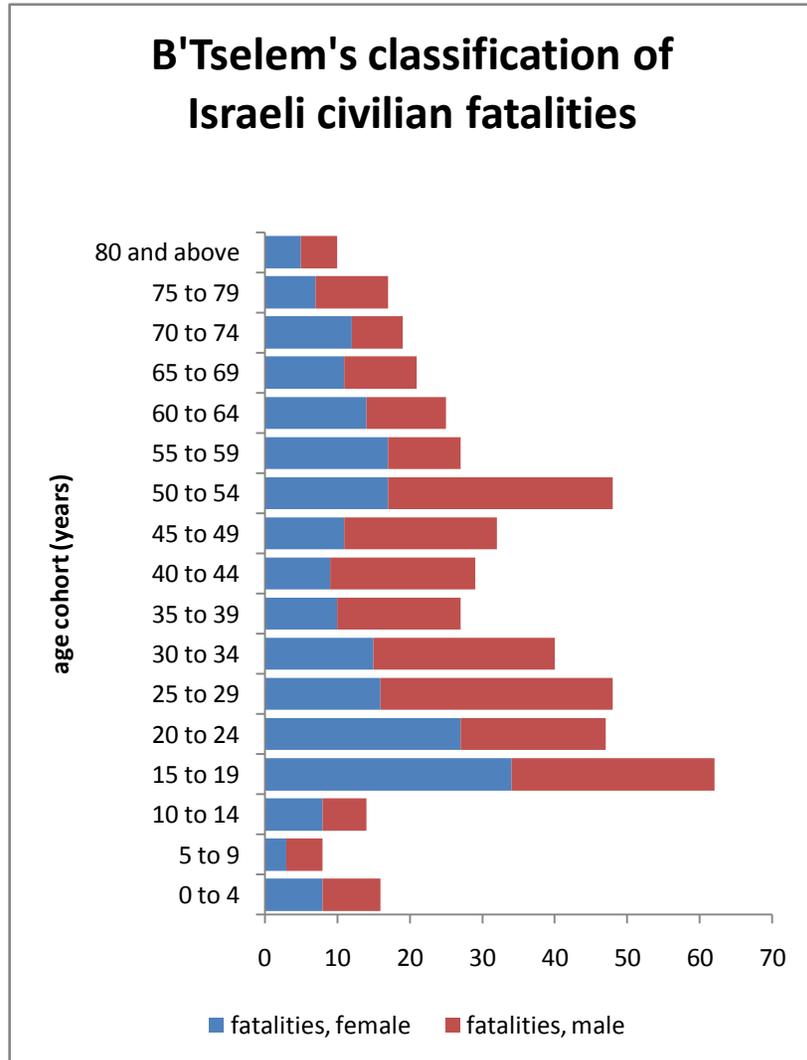


FIGURE 8

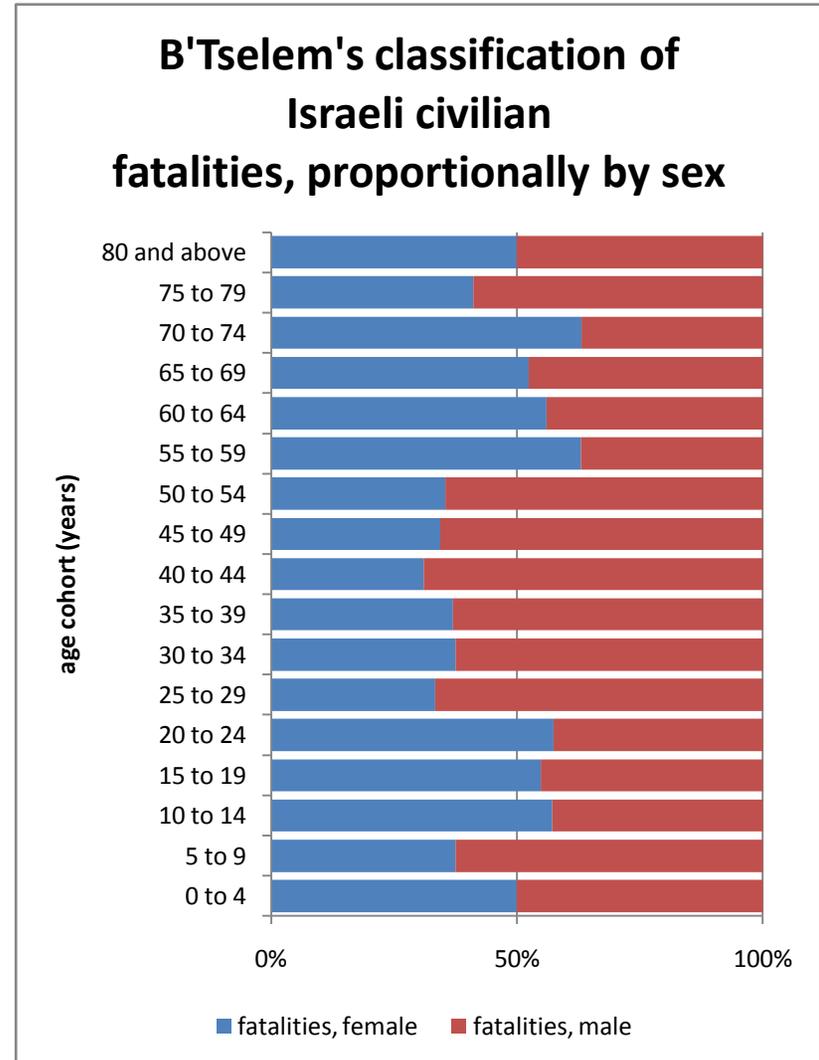


FIGURE 9

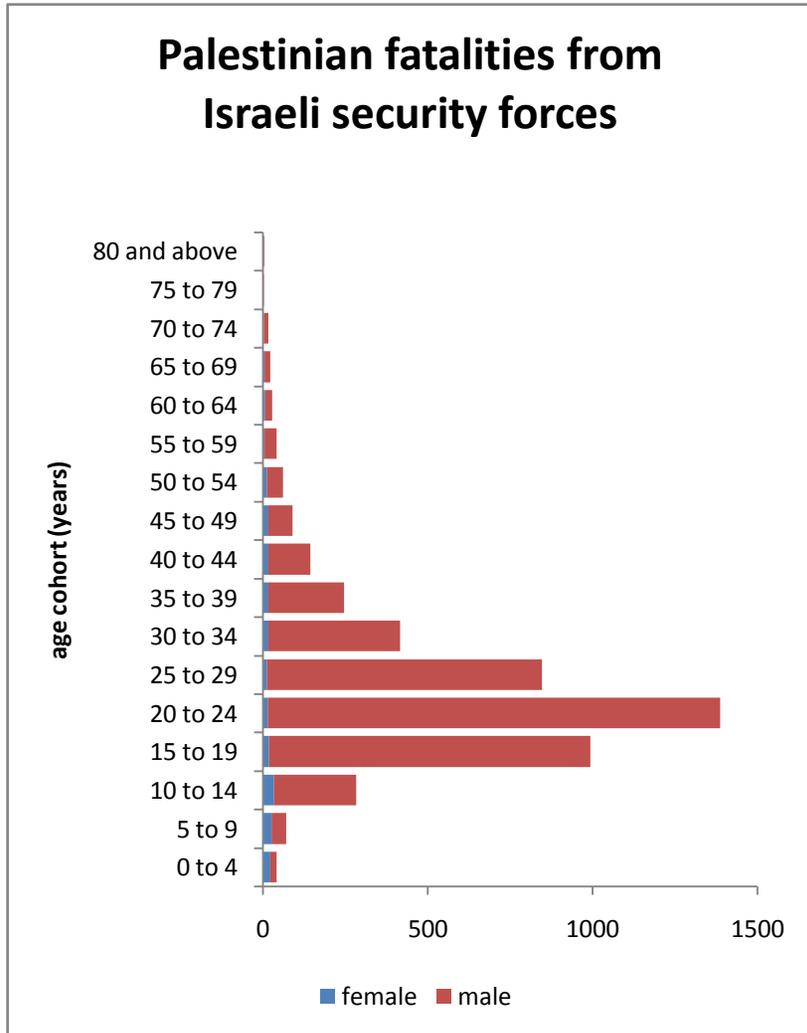


FIGURE 10

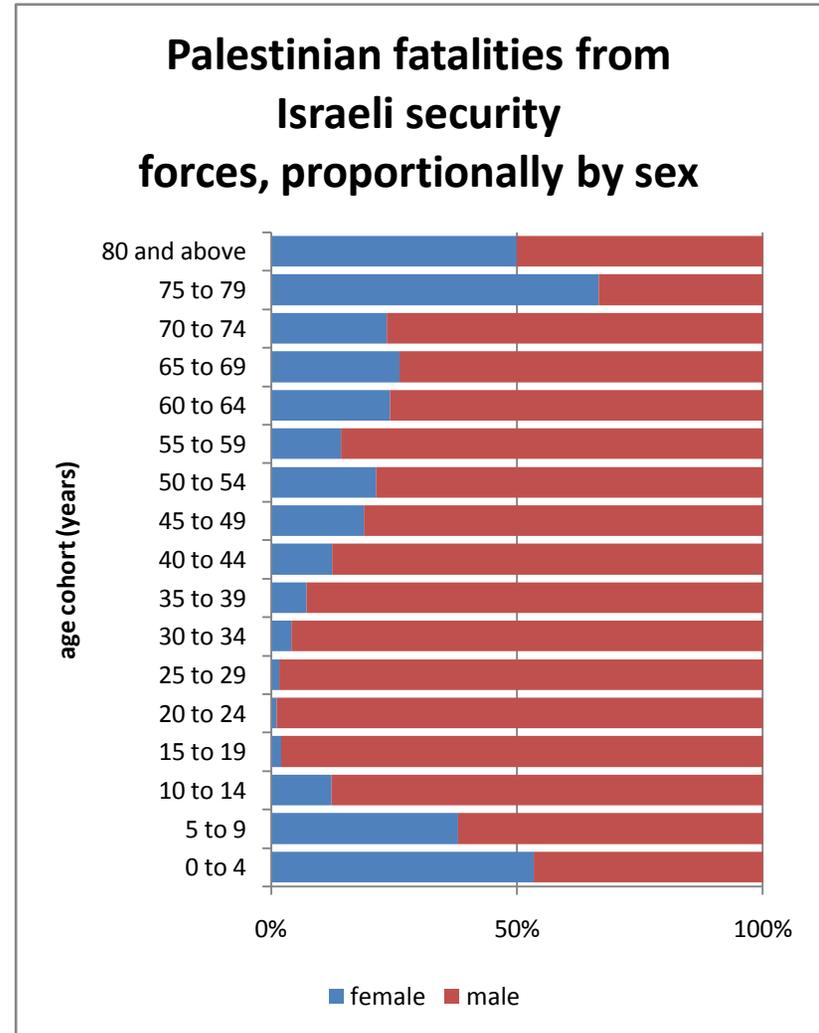


FIGURE 11

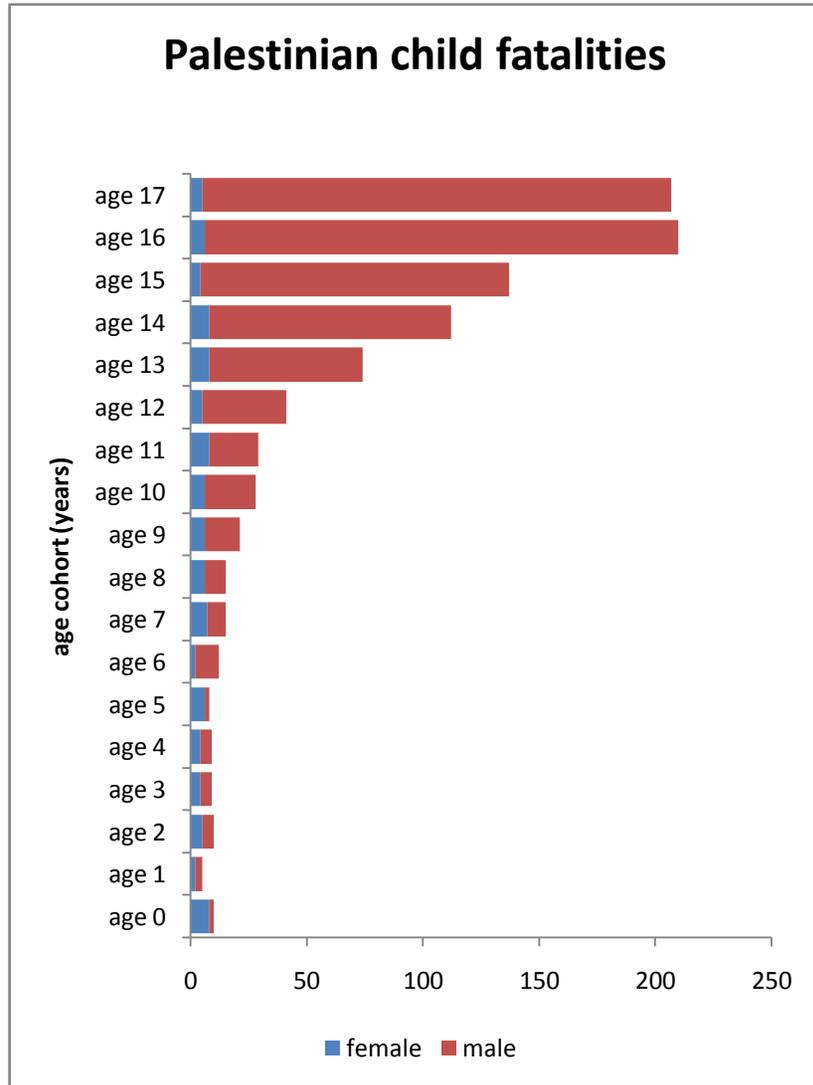


FIGURE 12

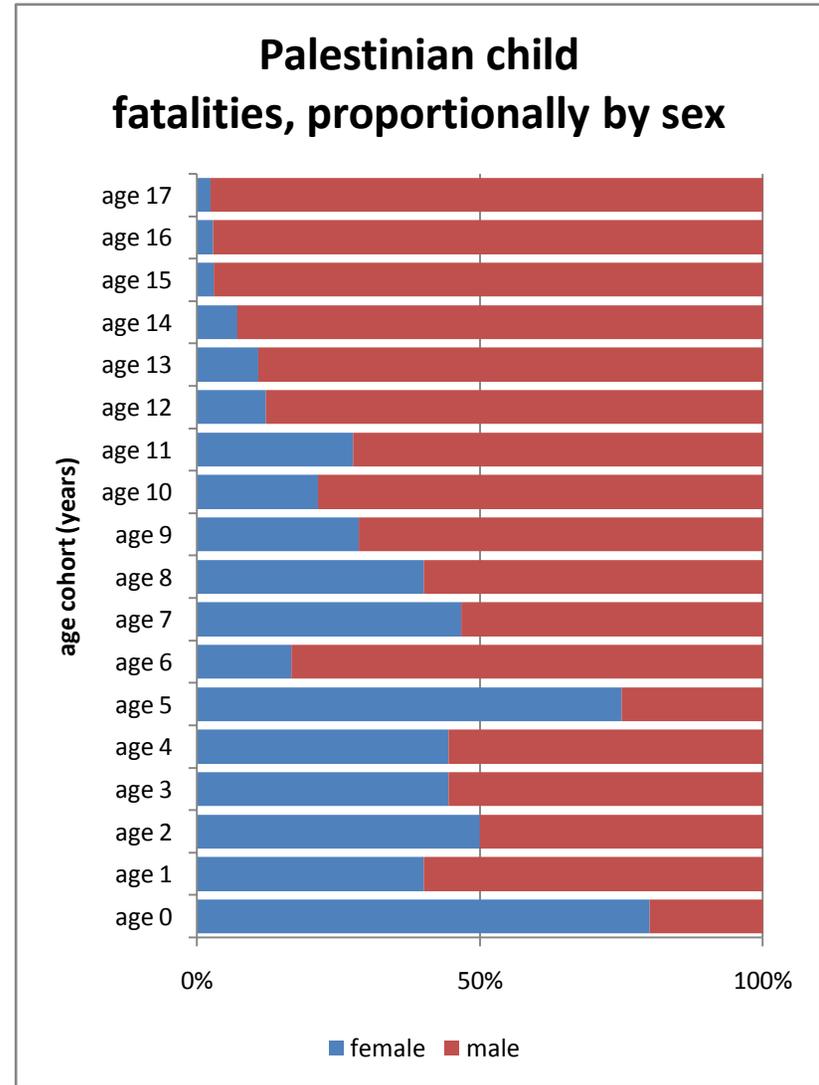


FIGURE 13

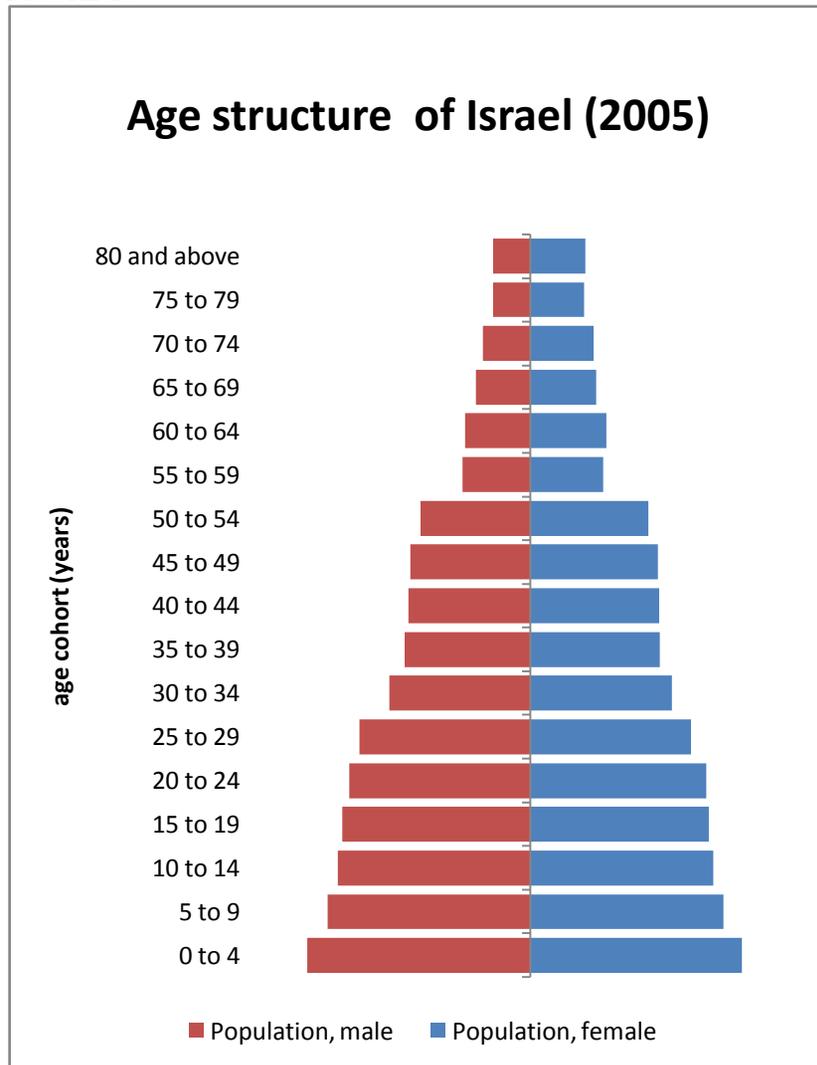


FIGURE 14

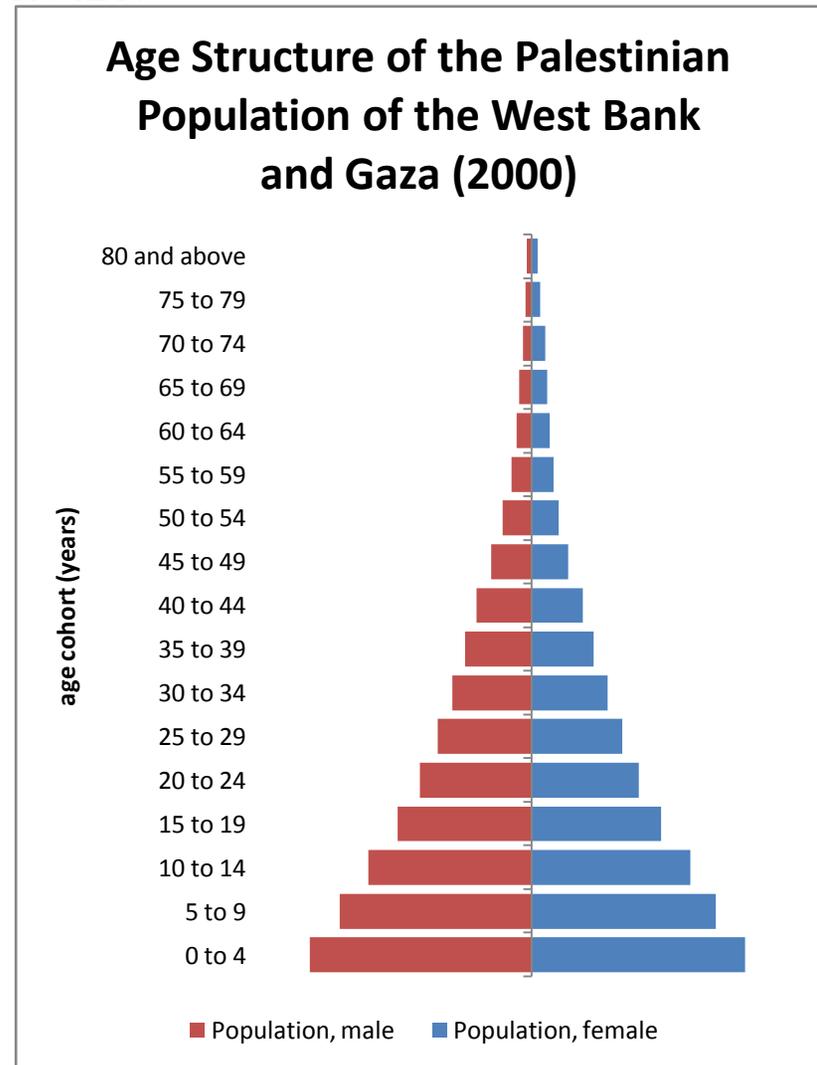


FIGURE 15

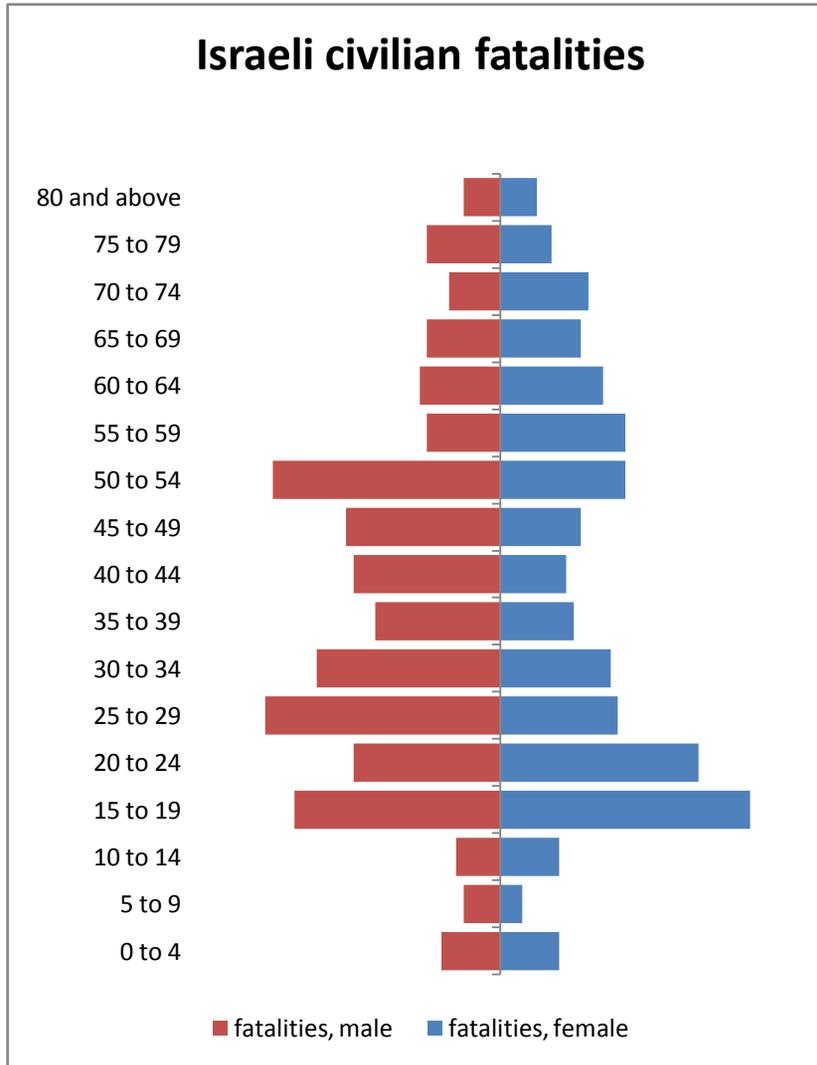


FIGURE 16

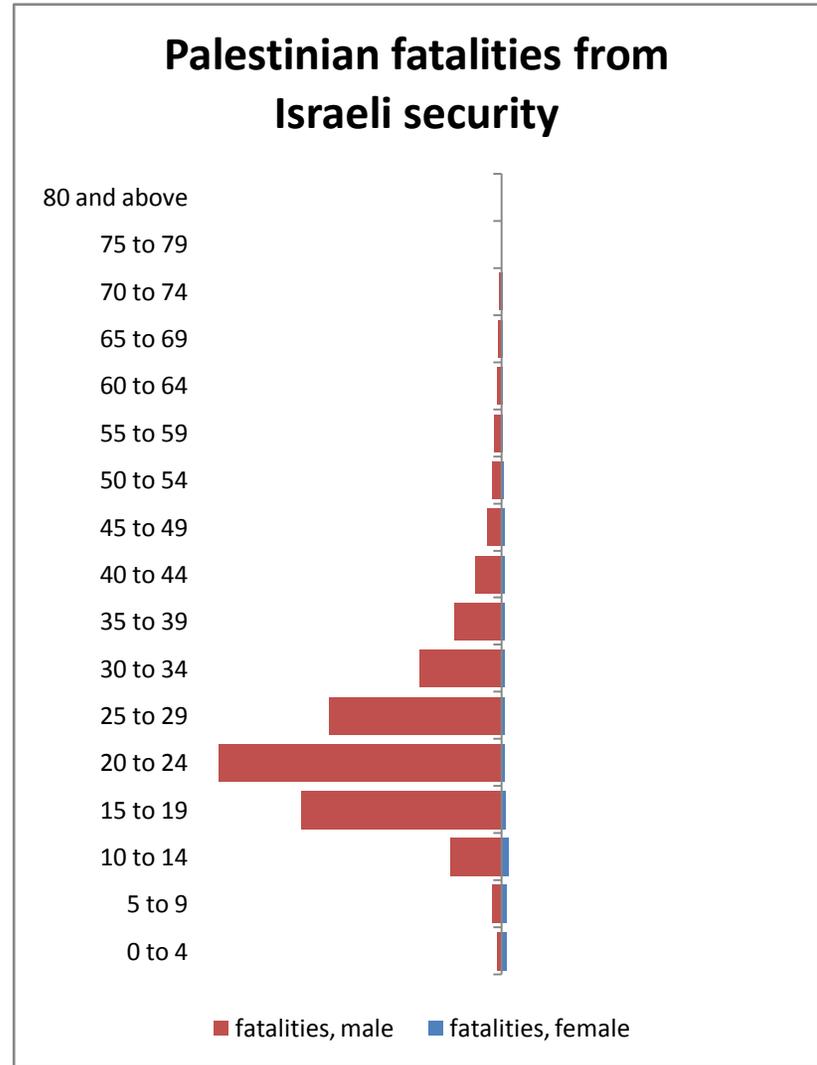


FIGURE 17

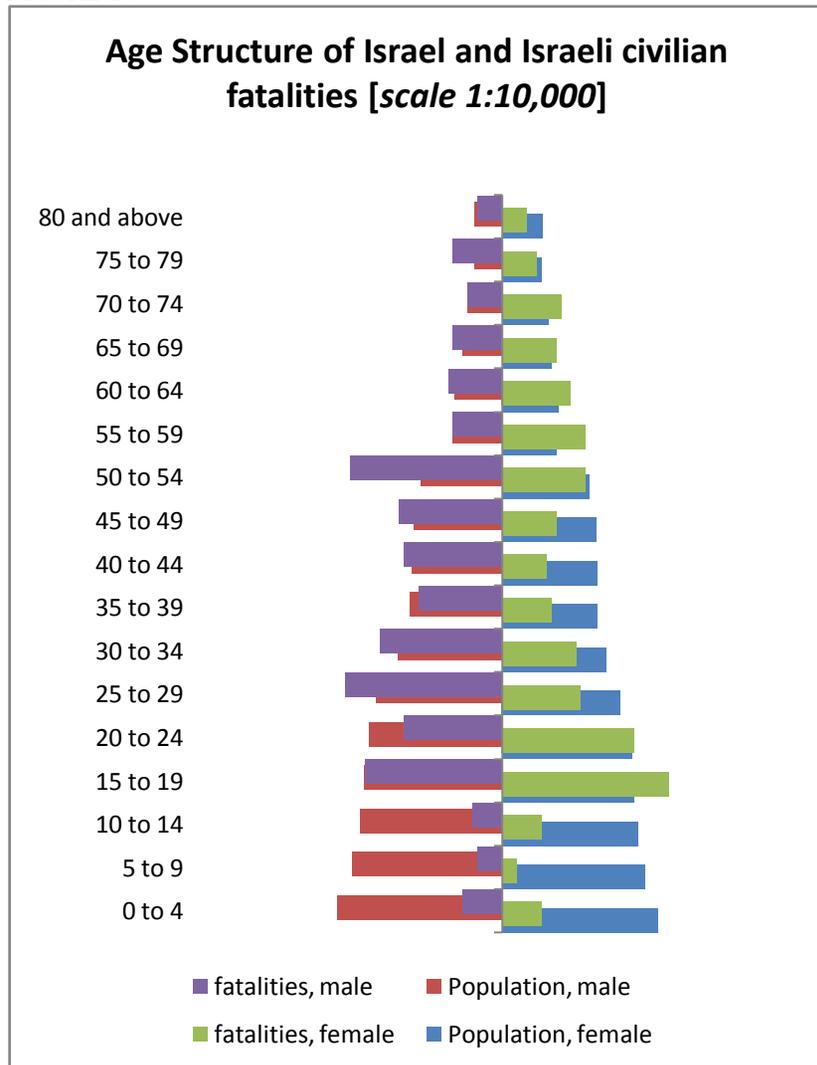


FIGURE 18

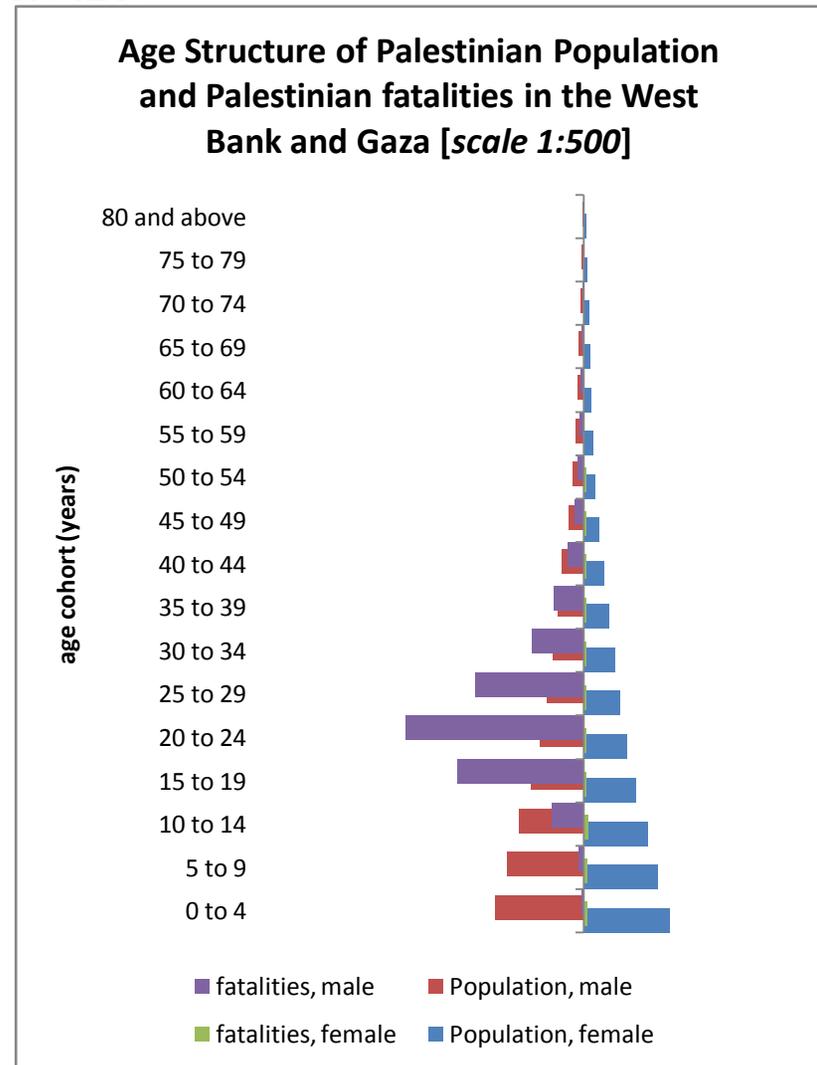


FIGURE 19

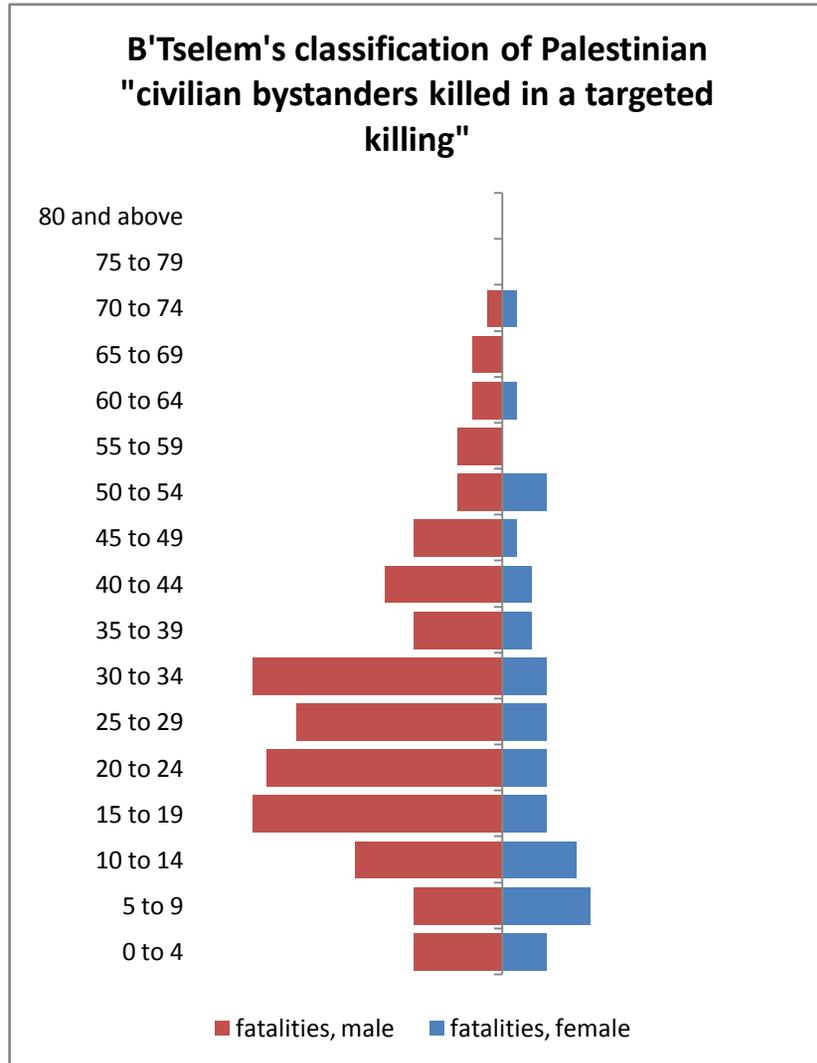


FIGURE 20

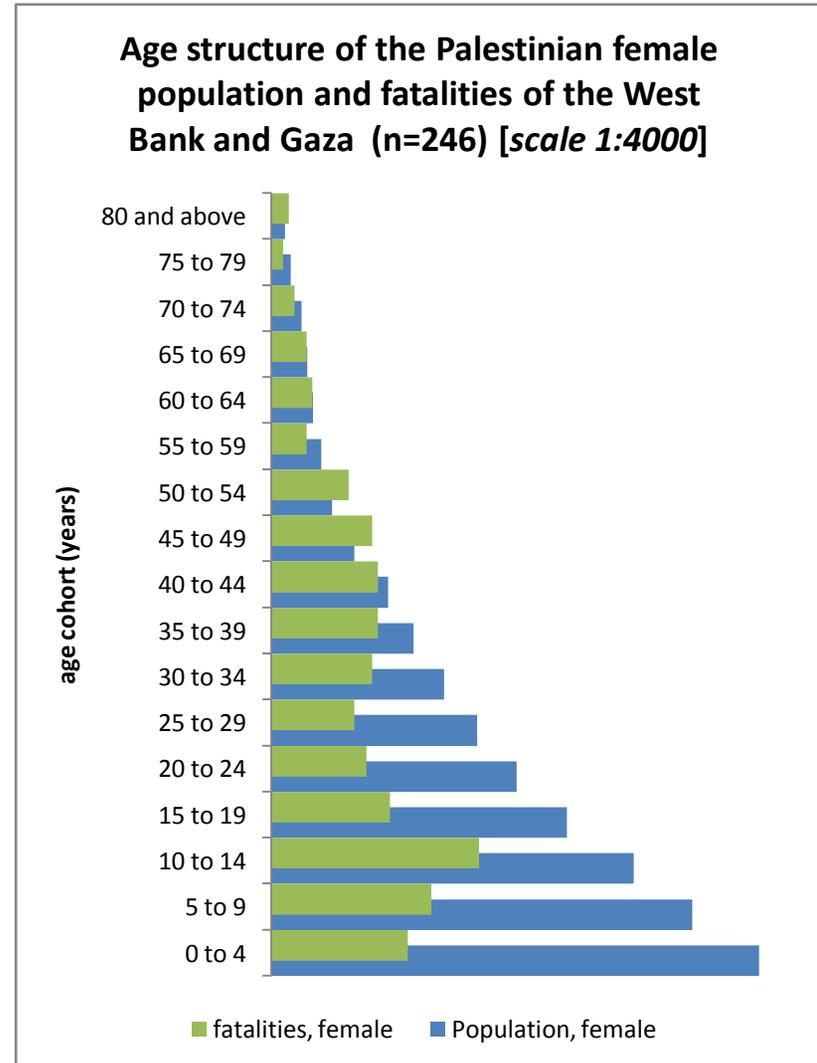


FIGURE 21

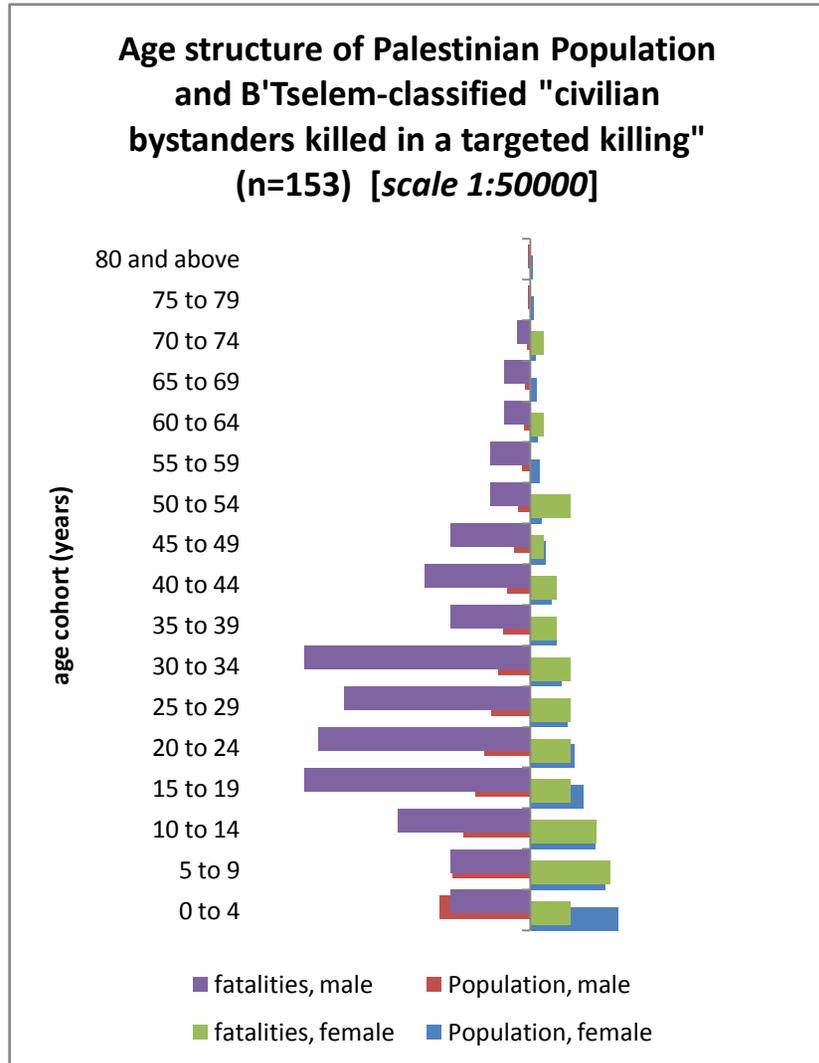


FIGURE 22

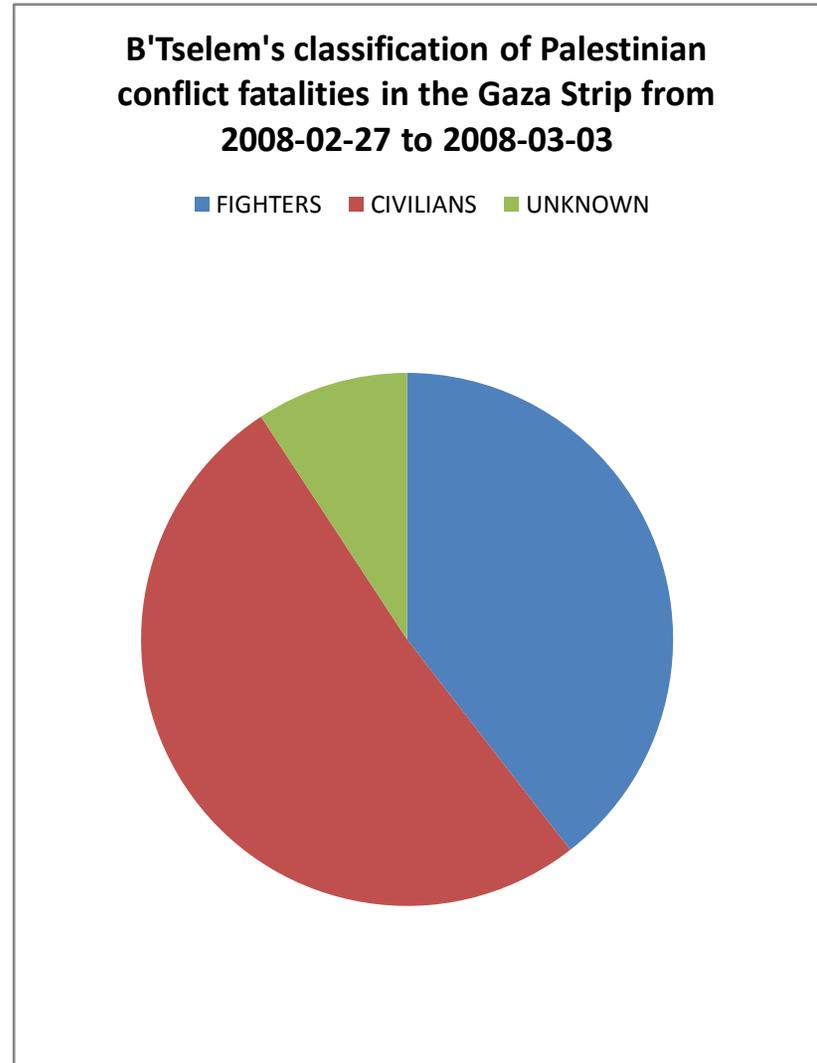


FIGURE 23

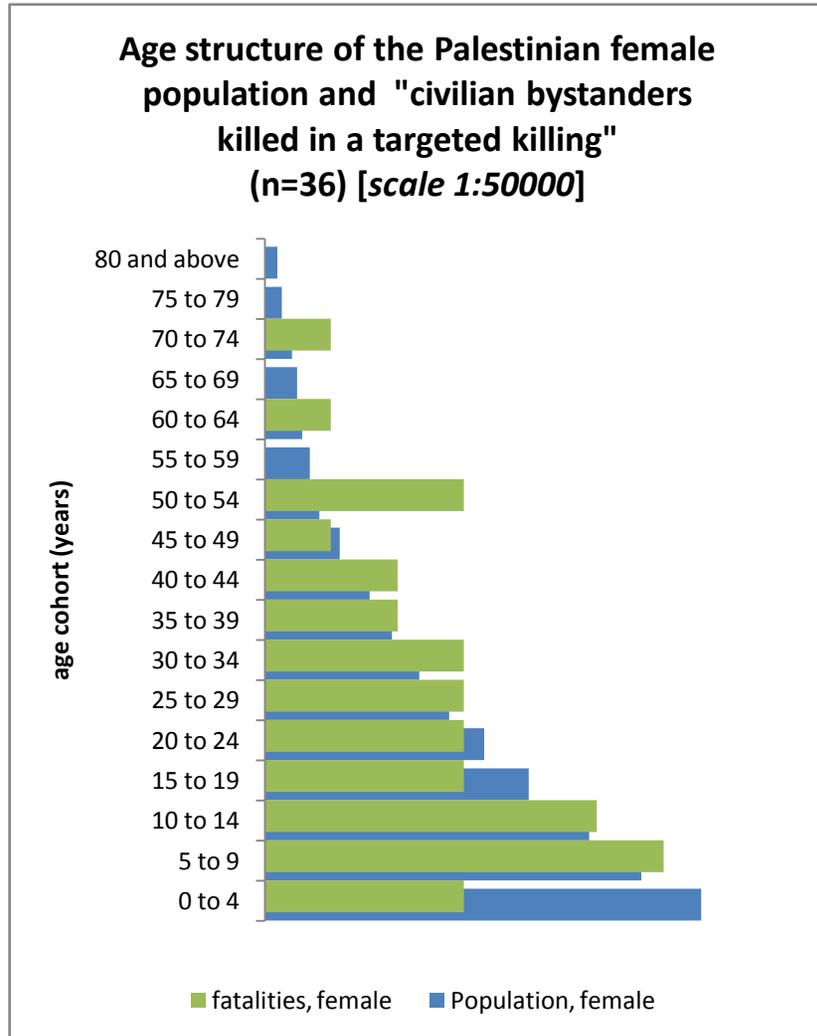
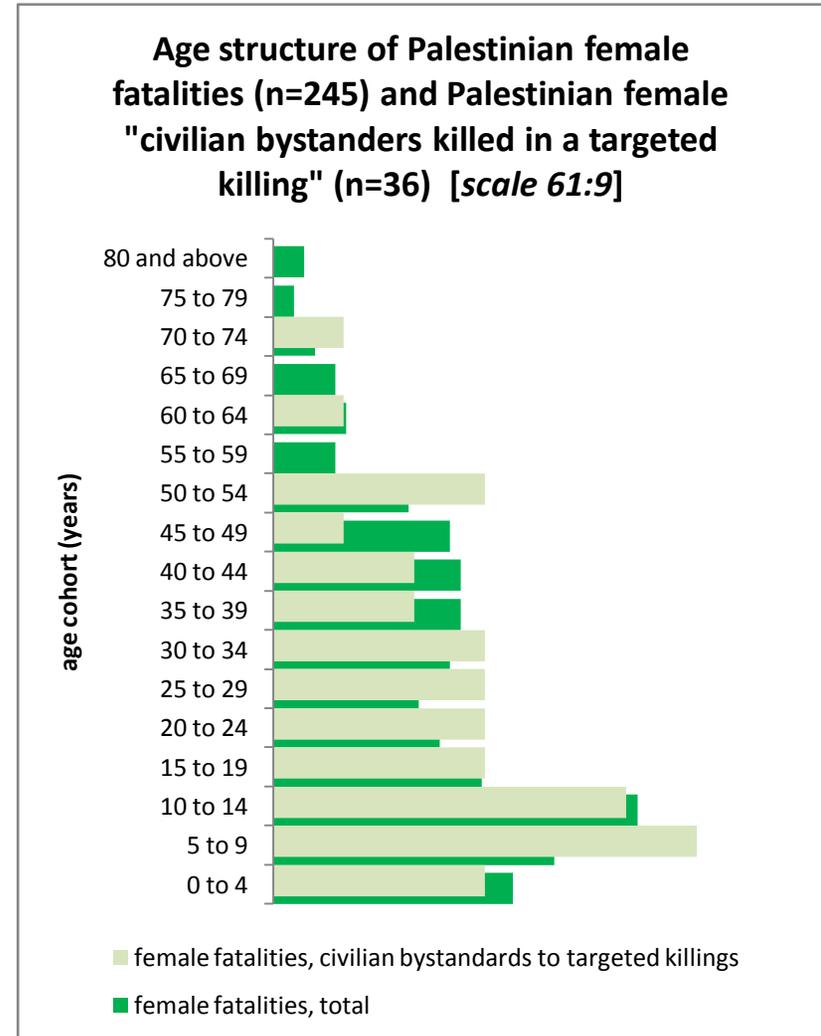


FIGURE 24



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