

ISRAEL AND OCCUPIED PALESTINIAN TERRITORIES (OPT)

UPDATE OF THE BRIEFING
TO THE COMMITTEE
AGAINST TORTURE

AMNESTY
INTERNATIONAL



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CONTENTS

Israel and the Occupied Palestinian territories (OPT) 5

Introduction 5

B. Indefinite detention under the Unlawful Combatants Law: Article 16 of the Convention 5

C. Destruction of Palestinian homes and property in Gaza: Article 16 of the COntention... 6

D. Denial of medical care to the wounded: Article 16 of the Convention..... 11

E. Use of palestinians as human shields: Article 16 of the Convention..... 12

F. Targeting of emergency medical workers on duty: Article 16 of the Convention 14

G. Causing severe pain by the use of white phosphorus and by the denial of its use: Article 1 and Article 16 of the Convention..... 15

ISRAEL AND THE OCCUPIED PALESTINIAN TERRITORIES (OPT)

UPDATE FOR THE BRIEFING TO THE COMMITTEE AGAINST TORTURE

INTRODUCTION

This briefing is submitted to the Committee against Torture (or the Committee) in view of its consideration of Israel's fourth periodic report on its implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). Complementary to the briefing previously sent to the Committee, this update focuses on Amnesty International's concerns about Israel's failure to respect the provisions of the Convention against Torture particularly during the 22-day Israeli military campaign from 27 December 2008 to 18 January 2009 (operation "Cast Lead"). Amnesty International is of the view that the several types of practices routinely resorted to by Israeli forces during the conflict amounted to cruel, inhuman or degrading treatment or punishment against Palestinians. These practices, which violated international human rights and humanitarian law, include: indefinite detention under the Unlawful Combatants Law; use of Palestinians as human shields; denial of medical care to the wounded; targeting of emergency medical workers on duty; causing severe pain by the use of white phosphorus weapons and prolonging unnecessary suffering by the denial of its use; and unlawful destruction of Palestinian homes and property in Gaza.

B. INDEFINITE DETENTION UNDER THE UNLAWFUL COMBATANTS LAW: ARTICLE 16 OF THE CONVENTION

In addition to what has been said in the Briefing, Amnesty International considers it essential to emphasise that the provisions of the Unlawful Combatant Law are inconsistent with the prohibition of cruel, inhuman or degrading treatment or punishment under Article 16 of the Convention.¹ The use of this law increased sharply in recent months, since the Briefing was prepared last September.

The Unlawful Combatants Law (Law 5762 – 2002), passed in 2002, was amended in August 2008, extending the period of detention to 14 days without any judicial review whatsoever; denying access to legal counsel for up to 21 days; and reliance on classified information and inadmissible evidence such as hearsay. The law also establishes a military court system in

¹ See Amnesty International, *Israel and the Occupied Palestinian Territories (OPT): Briefing to the Committee against Torture, September 2008*, AI Index: MDE 15/040/2008, para. H.

Israel for the purpose of extending the detention under specific circumstances of those held under the “Unlawful Combatants” Law. That is inconsistent with Israel’s obligation to ensure oversight of detentions by an independent judicial authority. In June 2008 the Israeli Supreme Court upheld the legality of the law, and affirmed that it does not apply to citizens and residents of Israel, but only to “outside elements”, including residents of the Gaza Strip, thereby creating system which discriminates between citizens and non-citizens, as well as between Palestinians in the Gaza Strip and those in the West Bank – all of whom are protected persons under the Fourth Geneva Convention.

During the 22-day Israeli military campaign from 27 December 2008 to 18 January 2009 (operation “Cast Lead”) Israeli forces captured several hundred Palestinians inside the Gaza Strip. Most of them were subsequently released without charge after periods of detention varying from a few days to a few weeks, but 14 remain detained in Israeli jails under the Unlawful Combatants Law.

C. DESTRUCTION OF PALESTINIAN HOMES AND PROPERTY IN GAZA: ARTICLE 16 OF THE CONVENTION

In its submission to the Committee against Torture Amnesty International stated that the demolition of Palestinian homes formed a discriminatory policy directed against Palestinians, which constituted cruel, inhuman or degrading treatment contrary to Article 16 of the Convention.² The Committee’s Report to the General Assembly in 2002 stated that “Israeli policies on house demolitions may, in certain instances, amount to cruel, inhuman or degrading treatment or punishment”.³

During the 22-day Israeli military campaign from 27 December 2008 to 18 January 2009 (operation “Cast Lead”) Israeli forces destroyed more than 2,000 homes and hundreds of other properties, including factories/workshops, animal farms and orchards, as well as government buildings, police stations and prisons, and caused varying degrees of damage to up to 20,000 others.⁴ Much of the destruction was wanton and could not be justified on grounds of “military necessity”.

Israeli government and army spokespeople have insisted that the only Hamas combat positions, weapons stores and command facilities were targeted and that damage to civilian infrastructure was incidental or resulted from Hamas using the civilian population as a “human shield”.⁵

² See Amnesty International, *Israel and the Occupied Palestinian Territories (OPT): Briefing to the Committee against Torture, September 2008*, AI Index: MDE 15/040/2008, para. I.

³ UN GAOR Supp. A/57/44 (2002)

⁴ According to the ICRC more than 2,800 houses were completely destroyed and almost 1,900 partially: <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/palestine-update-260209>.

⁵ However, military sources have reportedly admitted to wanton destruction. See: “IDF probe: Cannot defend destruction of Gaza homes”, Haaretz, 15 February 2009, at: <http://www.haaretz.com/hasen/spages/1064161.html>.

However, this is contradicted both by what Israeli forces actually did and other statements by officials and soldiers that indicate an intention to wreak large-scale destruction as a means of punishing the population of Gaza. The means and methods of the attack employed and the scale of the destructions, and the targets chosen, as well as the number of civilian casualties they caused, indicates that the extensive destruction of civilian homes and property was to a large extent deliberate and an integral part of Israel's military strategy, rather than "collateral damage".

Statements by Israeli officials prior and during the three-week military offensive, and graffiti left by Israeli soldiers on the walls of Palestinian homes which they took over during their incursion into Gaza indicate that large scale wanton destruction was to a large extent part of a strategy/doctrine at different levels of the command chain, from high level officials to soldiers in the field. Graffiti found by Amnesty International delegates in houses which had been taken over by Israeli soldiers include: "*Death to the Arabs, we came to annihilate you; Die you all, Arabs have 2 die, 1 is down 999,999 to go; Next time it will be much worse; All of Gaza is a Jewish playfield; Kahane was right*".⁶

Reserve Colonel Yehoar Gal, an Air Force pilot, told Israeli Army Radio on 11 January, during operation "Cast Lead":

*"I believe that it should have been even stronger! Dresden ! Dresden ! The extermination of a city! After all, we're told that the face of war has changed. No longer is it the advancing of tanks or an organized military. [...] It is a whole nation, from the old lady to the child, this is the military. It is a nation fighting a war. I am calling them a nation, even though I don't see them as one. It is a nation fighting a nation. Civilians fighting civilians. I'm telling you that we [...] must know [...] that stones will not be thrown at us! I am not talking about rockets -- not even a stone will be thrown at us. Because we're Jews.[...] I want the Arabs of Gaza to flee to Egypt . This is what I want. I want to destroy the city, not necessarily the people living within it."*⁷

On 1 February, 12 days after Israel's and Hamas' declarations of ceasefire, Israeli Prime Minister Ehud Olmert again threatened "*disproportionate*" retaliation for Palestinian rocket attacks from Gaza.⁸

The pattern of destruction indicates that much of it was wanton, manifestly carried out in retaliation for Palestinian attacks and as a form of collective punishment on the inhabitants of certain areas, as well as to "clear" certain areas of residents and of Palestinian activity in

⁶ Rabbi Meir Kahane was the founder of *Kach*, a racist party which advocated the expulsion of Palestinians and which was banned from the Knesset in 1986 and outlawed in 1994.

⁷ <http://eyalniv.wordpress.com/2009/01/12/stopwar24/>

⁸ <http://www.ihf.com/articles/2009/02/01/mideast/mideast.4-420683.php>

http://news.bbc.co.uk/1/hi/world/middle_east/7863500.stm

<http://www.telegraph.co.uk/news/worldnews/middleeast/israel/4421726/Israel-vows-disproportionate-response-to-Gaza-rocket-attacks.html>.

general.

The Fourth Geneva Convention specifically prohibits collective punishment. Its Article 33 provides: *"No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited."*

As the occupying power, Israel is forbidden from destroying the property of Palestinians in the West Bank and Gaza Strip, unless it is militarily necessary to do so. According to Article 53 of the Fourth Geneva Convention: *"Any destruction by the occupying power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or co-operative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations."*

The Israeli Army's definition of "military/security necessity" is extremely broad, to the point of undermining fundamental principles of international humanitarian law. Article 48 of Additional Protocol I sets out the "basic rule" regarding the protection of civilians – the principle of distinction. This is a cornerstone of international humanitarian law.

"In order to ensure respect for the protection of the civilian population and civilian objects, the parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objects."

Military objectives are those that: *"by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at a time, offers a definite military advantage."* (Article 52(2), Additional Protocol I). All objects that do not meet this definition are civilian objects.

As well as destroying entire neighborhoods, Israel attacked businesses, factories, farms, public civilian infrastructure, including medical and humanitarian facilities, schools, government ministries, police stations and the prison. Some of these were deliberately targeted, while others were destroyed or damaged in indiscriminate attacks.

Overbroad interpretations of what constitutes military objective or military advantage are often used to justify attacks aimed at harming the economy of a state or demoralizing the civilian population. Such interpretations undermine civilian immunity. If weakening the enemy population's resolve to fight were considered a legitimate objective of armed forces, there would be no limit to war.

Israeli soldiers at times destroyed – for no apparent reason - and frequently vandalized the houses they took over. They defaced the walls with insulting or threatening graffiti, deliberately smashed and soiled furniture and possessions and often left excrement all over the houses when they left – along with evidence of their stay in the houses, such as spent ammunition, food rations, army medical kits and other supplies, the army magazine *"Bmakhane"* and Hebrew prayers leaflets.

All available evidence indicates that for the most part the houses which had been used by Palestinian fighters were destroyed after – rather than during the fighting. In most destroyed houses neither bodies of fighters nor weapons were found. The scores of bodies recovered from the rubble of demolished houses after the end of operation “Cast Lead” were mostly of civilians, including women and children – not of armed fighters. The recovery of the bodies from the rubble of destroyed houses was witnessed by human rights workers and foreign journalists who flocked to the affected areas from the first hours of the ceasefire coming into effect.

Bar a few cases, the Israeli army has provided no evidence that the destroyed houses and properties served as military command centres or were used to manufacture or store weapons. Amnesty International delegates and hundreds of foreign reporters who poured into Gaza in the wake of the ceasefire were able to wander freely through the destroyed neighborhoods and to inspect the destroyed properties. With the exception of a small percentage of buildings which were too extensively destroyed to allow for any meaningful inspection, AI found no evidence that weapons or explosives had been stored in the destroyed or damaged houses and other buildings inspected. They found no remains of weapons and did not observe conflagrations that would have resulted if an explosive dump had been struck. In many cases the pattern of destruction suggested that the aim was to cause sufficient damage to put the properties out of use rather than to destroy weapons which may have been stored there, as the kind of damage inflicted would not have impeded the retrieval of weapons if any had been stored there.

Many of the houses were destroyed with Israeli anti-tank mines, as evident from the remains of the mines, which littered the destroyed neighbourhoods, and from the pattern of destruction.⁹ The fact that the soldiers used this method – which required them to leave their tanks, walk between the houses and enter the houses in order to place the explosive charges inside the houses along the supporting walls – indicates that they felt extremely confident that there were no Palestinian gunmen inside or around the houses, nor any tunnels under the houses which gunmen could use to capture them, and that the houses were not booby-trapped.

At the destroyed home of the **Mardi family in Atatra**, in north-west Gaza, Amnesty International delegates found one of the anti-tank mines that was used by Israeli soldiers to blow up the house on 5 January. The mine, which bore Hebrew markings writing and serial numbers, was damaged but had failed to explode (see photo). The family said that they had found another mine, wholly unexploded, which had been removed by the local police. Sitting by the rubble of his home, 63-year-old Na'im Mardi, told AI: *22 people lived in this house. I and my wife and our two youngest children, and my four married sons and their wives and children. When the Israeli ground forces invaded on 3 January the situation became very dangerous in the area and most people fled. All my children went to stay with relatives nearby*

⁹ These mines were identified as being Israeli army mines from the Hebrew markings and serial numbers found on the remains of the mines by Amnesty International delegates on the ground. Though designed to be used against tanks, these mines can be easily adapted through the addition of an explosive charges and fuses. Israeli forces have often used them to destroy Palestinian houses in the West Bank and at times also in Gaza.

but I refused to leave my home. All my life's hard work is in this house and I would not abandon it. The day after (4 January) my son and his wife and three children came back; they didn't want to leave me in the house alone with army all around the area. That evening the soldiers told us to get out; they said the house would be safe. We went to stay with the neighbors relatives next door. The following morning at about 9 am they started to blow up our house. There was nothing we could do".

In the **al-Jaru neighbourhood** on the outskirts east of Gaza City, most of the residents were forced to flee their homes when Israeli tanks took position in and around the area. Those who remained were at risk from the Israeli shelling all around the area. When the residents returned to their home after the ceasefire they found that 45 houses, which were home to 250 members of the extended al-Jaru family, had been reduced to rubble.

Many of the destroyed homes were in the more up market suburbs in east and north Gaza, away from the overcrowded inner cities and refugee camps, in neighborhoods made up of larger, individual houses with gardens and orchards belonging to members of the extended families after whom the neighborhoods are named. The residents are mostly farmers, professionals or employees of Ramallah-based PA government and many are supporters of Fatah, Hamas' main rival. Many of the houses were built in the second half of the 1990s, during the years of the Israeli-Palestinian "peace process", following the Oslo Accords between the two sides. Families who had put their entire life savings into building their homes have lost everything.

Yousef Abu 'Ida (Abu 'Abdallah) and his wife Leila worked as teachers in the Emirates for 28 years and returned to Gaza in the mid-1990s and used their savings to build a large five-storey house in the Hay al-Salam (Peace neighborhood) to the east of Jabalia, where they lived with their five daughters and four sons, aged between four and 22 years. During operation "Cast Lead" Israeli soldiers forcibly took over their house and held the family as human shields for two days while they used the house as a military position, then they forced the family out and later destroyed the house (see photo of tank shell cartridge found by the house). Abu 'Abdallah: *"On 4 January, the day after the beginning of the Israeli ground invasion, we were in the house, the whole family, me and my wife and the children... The following morning an army bulldozer uprooted our garden and orchard around the house, where we had tomatoes and citrus fruit trees. I spoke to the soldiers in English, telling them we were a civilian family. At about 10.30 am a group of soldiers entered our home, and locked all of us in the basement and they went upstairs. They took our mobile phone and did not allow us to move. They took all the blankets and mattresses. We had no food and no water. The children were scared, cold, hungry and thirsty but we had nothing. We were kept like that for two days. We heard the soldiers laughing upstairs. After a day the younger children were desperate for water and I took the bit of water which remained in the cistern of the toilet to give to them; there was no other alternative. After two days, on the morning of 7 January the soldiers threw us out of the house. I asked to go upstairs to fetch some clothes and shoes but they did not allow us. We had to leave barefoot and with only what we were wearing when the soldiers first came into the house two days earlier. We went to stay with relatives in Jabalia and kept worrying about what damage the soldiers might have done to our home, but we never thought they would destroy it. When the ceasefire was declared and we could go back we found a pile of rubble instead of our home. It was a beautiful home. All the years of our hard work went into building our beautiful home.... We came back to Gaza after*

the Oslo Accords, and made a beautiful home, because we believe in peace...."

In **Khouzaa, south-east Gaza**, a cluster of some 20 large houses, mostly built in the late 1990s, were bulldozed on 13 January. In the previous two days nearby there had been some armed clashes between Israeli forces and Palestinian gunmen and indiscriminate Israeli attacks, including white phosphorus and other artillery attacks. Most of the families had gone to stay with relatives or neighbours nearby. Nabil al-Najjar, his wife and their five children are among those who lost their home: *"There was shelling in the area on 11-12 January and some of it reached the homes. Some of the bombs which fell were white phosphorous. When it fell there would be a fire and we would throw on sand on it. By 13 January most of the families had left and on that day 8 bulldozers came in before dawn and worked methodically destroying the houses; it took them seven hours to finish the job, razing the homes and orchards. Some families were still in their houses. People built their homes here around 10 years ago, when we thought there would be peace. That olive tree I planted in 1998, the day President Clinton came to visit Gaza."*

All together some 600-700 factories, workshops and businesses were destroyed or damaged, according to the Palestinian Union of Businesses and the Palestinian Federation of Industries. Given the already dire economic situation the impact is even worse and will seal the fate of many businesses. Many simply won't survive.

As well as houses and factories, animal pens and acres of crops, were also systematically smashed and churned up by bulldozers. Not only were the farms destroyed but the animals were also killed. In the 'Izbet Abed Rabbo area, around the crushed animal pens, light structures mostly made of corrugated iron, the surrounding fields were littered with dead cows, goats and sheep, some crushed by bulldozers others seemingly killed as they run away.

D. DENIAL OF MEDICAL CARE TO THE WOUNDED: ARTICLE 16 OF THE CONVENTION

The denial of medical treatment for sick and wounded in Gaza constitutes cruel, inhuman and degrading treatment or punishment under Article 16.¹⁰ As the occupying power, Israel has a duty under international human rights and humanitarian law to ensure the right to health of the population of Gaza without discrimination and to ensure provision, to the fullest extent of the means available to it, of medical supplies to the population of Gaza. In a situation of an armed conflict, the parties must allow and facilitate rapid and unimpeded passage of impartial humanitarian relief (Additional Protocol II, Article 18). They must respect and protect medical personnel and their means of transport (Additional Protocol I, Articles 15 and 21)

During operation "Cast Lead", notably after Israeli ground forces took positions inside Gaza on 3 January 2009, many of the wounded died needlessly because they were denied access to medical care. The journey to the hospital only takes about 10 to 15 minutes, but Israeli forces did not allow ambulances or other vehicles to reach them. In some cases ambulances

¹⁰ See also Amnesty International, *Israel and the Occupied Palestinian Territories (OPT): Briefing to the Committee against Torture, September 2008*, AI Index: MDE 15/040/2008, para. K.

were not allowed to reach the wounded for several days and as a result numerous wounded Palestinians died whereas they could have been saved.

Mohammed Shurrab and his two sons, Ibrahim, 18, and Kassab, 28, were injured at about 2.30 pm in the afternoon of 16 January as they were returning from the family farm in the east of Khan Yunis to their home in Khan Yunis. Their vehicle came under fire from Israeli forces stationed in a building along the road. They were fired upon during the daily three-hour ceasefire (known as the “humanitarian corridor” announced by the Israeli authorities on 7 January). Kassab was seriously injured in the chest, Ibrahim in the leg and their father sustained light shrapnel injury in his hand.

The father immediately telephoned the emergency ambulance services and called to the soldiers in the nearby building for help. No ambulance was allowed to reach the vehicle with the three wounded men and they were not allowed to move from the vehicle. Kassab died shortly after. At 7:30 pm PHR-Israel contacted the army but was told that the rescue could not go ahead. At about 1:15 am PHR-Israel contacted the father who reported that his second son, Ibrahim, had died shortly before after losing a large quantity of blood.

Having been forced to watch his two sons bleed to death, and himself injured, Mohammed had to spend the rest of the night and the following morning in his car, unable to move and unable to receive any help. An ambulance was eventually allowed to rescue him and collect the bodies of his two sons at 12:00 noon the following day – some 22 hours after they had been shot.

In one case in the Zaytoun district south of Gaza City a woman from the Sammouni family went into labour and delivered a baby. The Israeli soldiers who had taken over the family houses did not allow her to be taken to hospital nor any medical assistance to come to house. The labour was seemingly induced prematurely by the stress and trauma of the hostage situation. The woman suffered severe bleeding after the delivery. The woman was also injured in the foot during the Israeli attack on the house and when the family was eventually allowed to leave the house she had to be carried by her relatives as she could not walk.

On 7 January, three PRCS ambulances escorted by an ICRC vehicle were finally allowed to evacuate 14 wounded civilians, most of them children, members of the al-Sammouni family, in the Zaytoun area, south of Gaza city. They had been trapped in the house, after it had been shelled by Israeli forces in the morning of 5 January. Children and elderly people had been trapped in the house, injured and with no food or water, and the children next to the bodies of their dead mother and relatives. Israeli forces did not allow the ambulances to approach the house and the paramedics had to walk for 1.5 km and to carry the wounded and three bodies on a donkey cart from the house to the ambulances.

E. USE OF PALESTINIANS AS HUMAN SHIELDS: ARTICLE 16 OF THE CONVENTION

Amnesty International believes that the use of Palestinian civilians as human shield violates the prohibition of cruel, inhuman or degrading treatment or punishment.

According to Article 28 of the Fourth Geneva Convention, “The presence of a protected person may not be used to render certain points or areas immune from military operations.” Israel has ratified the Convention which is also recognized as reflecting customary

international law and therefore binding on Israel, Hamas and other Palestinian armed groups. The prohibition against the use of human shields is further clarified in Article 51(7) of the Additional Protocol 1. It states, "Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations."

The Supreme Court of Israel has also prohibited this practice. In its ruling of 6 October 2005, the Israeli Supreme Court concluded that the so-called "Early Warning"¹¹ Procedure contradicts international law.¹²

During the 22-day Israeli military campaign from 27 December 2008 to 18 January 2009 (operation "Cast Lead") Israeli forces repeatedly entered Palestinian homes in the Gaza Strip forcing families to stay in a ground floor room while they used the rest of their house as a military base and sniper position – using the families, both adults and children, as human shields and putting them at increased risk.

In one case in the Zaytoun district south of Gaza City a woman went into labour and delivered a baby; the labour was seemingly induced prematurely by the stress and trauma of the hostage situation. The woman suffered severe bleeding after the delivery. The woman was also injured in the foot during the Israeli attack on the house and when the family was eventually allowed to leave the house she had to be carried by her relatives as she could not walk.

In several cases Israeli forces also forced unarmed Palestinian civilian males (mostly adults but in a couple of cases also children) to serve as human shields, including to walk in front of armed soldiers; to go into building to check for booby-traps or gunmen; or to inspect suspicious objects for explosives.

Majdi Abed Rabbo, a father of five: "At about 10 am on Monday 5 January soldiers came to my houses and took me with them to a neighbour's house where they were also keeping other neighbours. The soldiers were shooting from the house but I don't know at what because I could not see. *At about 2 P.M., a soldier took me outside, pointed to the Abu Hatem house and said, "There were armed people in that house. We killed them. Take off their clothes and take their weapons." I refused but they told me to obey. I went into the house, and found three very much alive armed Qassam members. They told me to leave and threatened me not*

¹¹ "Early Warning' is an operational procedure, employed in operations to arrest wanted persons, allowing solicitation of a local Palestinian resident's assistance in order to minimize the danger of wounding innocent civilians and the wanted persons themselves (allowing their arrest without bloodshed). Assistance by a local resident is intended to grant an early warning to the residents of the house, in order to allow the innocent to leave the building and the wanted persons to turn themselves in, before it becomes necessary to use force, which is liable to endanger human life". See: Operational Directive issued by the Israeli Defence Forces on 26 November 2002.

¹² *Adalah – The Legal Center for Arab Minority Rights in Israel v. IDF West Bank Military Commander*, H.C.J. 3799/02, Supreme Court of Israel, Judgment of 6 October 2005, 2005 (4) Takdin-Supreme 49, available online at: http://elyon1.court.gov.il/files_eng/02/990/037/a32/02037990.a32.htm.

to come back, "because we will shoot you." I returned to the soldiers, who made me undress and turn around, and I then told them that the three were alive. They handcuffed me; were shooting. Later they again sent me to check on the armed militants inside the house, I found one wounded and the others all right who said: "Tell the officer that if he is a man, he can come up here himself." The soldiers cursed me and handcuffed me. I heard a helicopter approaching, followed by the sound of a missile exploding. One of the soldiers said: Now we have killed them, with a missile. But when I looked I saw that the missile had struck my house and not the house with the gunmen inside. I told the soldier. At about midnight, between Monday and Tuesday, I was forced to go for a third time, to check if the gunmen were dead. I found two of the gunmen, still alive, but buried under the rubble; the third was still holding his weapon. I told the soldier who got angrier.

Yousef Abu 'Ida (Abu 'Abdallah) and his wife Leila and their nine children, five daughters and four sons aged between 4 and 22 years of age, were in their home in the Hay al-Salam (Peace neighborhood) to the east of Jabalia. Israeli soldiers forcibly took over their house and held the family as human shields for two days while they used the house as a military position, then they forced the family out and later destroyed the house. Abu 'Abdallah: "At about 10.30 am on 5 January a group of soldiers entered our home, and locked all of us in the basement and they went upstairs. They took our mobile phone and did not allow us to move. They took all the blankets and mattresses. We had no food and no water. The children were scared, cold, hungry and thirsty but we had nothing. We were kept like that for two days. We heard the soldiers laughing and shooting upstairs. We were scared. After a day the younger children were desperate for water and I took the bit of water which remained in the cistern of the toilet to give to them; there was no other alternative. After two days, on the morning of 7 January the soldiers threw us out of the house. I asked to go upstairs to fetch some clothes and shoes but they did not allow us. We had to leave barefoot and with only what we were wearing when the soldiers first came into the house two days earlier. The house was later destroyed (see chapter on house demolition)

F. TARGETING OF EMERGENCY MEDICAL WORKERS ON DUTY: ARTICLE 16 OF THE CONVENTION

Under the Geneva Conventions, medical personnel, i.e. those searching for, collecting, transporting, diagnosing or treating the wounded and sick (including wounded and sick combatants) must be protected and respected in all circumstances. Targeting emergency medical workers on duty is not only a violation of international humanitarian law, but also a violation of Article 16 of the Convention against Torture.

Israel has violated these provisions of international law during the recent three-week conflict in the Gaza Strip. Emergency medical rescue workers, including doctors, paramedics and ambulance drivers, repeatedly came under fire from Israeli forces while they were carrying out their duties. Sixteen medical personnel were killed and 25 wounded while they were on duty attempting to carry out their mission to assist and evacuate the wounded and collect the dead.

In one case Arafa Hani Abd-al-Dayam, a paramedic, was killed by flechettes, tiny metal darts packed 5-8,000 to a shell, which should never be used in civilian areas. On 4 January 2009, an ambulance arrived about 15 minutes after a missile strike in Beit Lahiya that apparently targeted five unarmed young men. It was hit a few minutes later by a tank shell filled with

flechettes.

Two paramedics were seriously wounded in the incident. One of them, Arafa Hani Abd-al-Dayam, later died. AI delegates visiting the scene two weeks later found the wall of the shop beside where the ambulance had been pierced by hundreds of these darts.

In another case, three paramedics in their mid 20s – Anas Fadhel Na'im, Yaser Kamal Shbeir, and Raf'at Abd al-'Al – were killed in the early afternoon of 4 January in Gaza City as they walked through a small field on their way to rescue two wounded men in a nearby orchard. A 12-year-old boy, Omar Ahmad al-Barade'e, who was standing near his home indicating to the paramedic the place where the wounded were, was also killed in the same strike.

Amnesty International delegates went to the scene of the incident with the two ambulance drivers who had accompanied the paramedics and who had witnessed the attack. There we met the child's distraught mother and we found the remains of the missile that killed the three paramedics and the child. After the four were killed in the missile strike, their bodies could not be removed for two days as the ambulances crews who tried to approach the site again came under fire from Israeli forces and could not approach.

In yet another case, on 12 January, several ambulances arrived rapidly after a six-storey apartment building had been hit by two missiles. Local residents were already trying to evacuate bodies of wounded and dead from the upper floors. Dr Issa Abdel Rahim Saleh and a paramedic, Ahmad Abdel Bari Abu Foul, were the first emergency medical workers at the scene and started evacuating the wounded. However, as they climbed down the stairs between the sixth and fifth floor an Israeli tank shell came through a window, slicing through the head and body of Dr Saleh who was standing on the landing. With several ambulances in the street below, and paramedics plainly visible by their phosphorescent jackets, it must have been clear to the Israeli surveillance drones hovering above the area and the tank crews a few kilometres away in the Jabal Raiss area that there were medics in the house, yet they fired nevertheless.

G. CAUSING SEVERE PAIN BY THE USE OF WHITE PHOSPHORUS AND BY THE DENIAL OF ITS USE: ARTICLE 1 AND ARTICLE 16 OF THE CONVENTION

Israeli forces used white phosphorous (WP)¹³, a weapon with highly incendiary effects, in built-up residential civilian areas in Gaza, during the 22-day Israeli military campaign from 27 December 2008 to 18 January 2009 (operation "Cast Lead"). Although using WP as an obscurant is not banned in IHL, air bursting WP artillery shells over densely populated Gaza violated the requirement to take necessary precautions to protect civilians. The cases investigated by AI of deaths and injuries to civilians caused by WP indicate that Israeli forces violated the prohibition on indiscriminate attack.

¹³ White phosphorus (WP) is used as an obscurant (to provide smokescreens to mask troop movement), to mark targets, to "trace" the path of bullets, and as an incendiary weapon. It can be dispersed by artillery shells, grenades, and rockets.

Amnesty International is of the view that the effects on victims of attacks using WP amounted to torture or other cruel, inhuman or degrading treatment in violation of Article 1 and Article 16 of the Convention.

White phosphorous particles embedded in the flesh can continue to burn, causing intense pain as the burns grow wider and deeper, and can result in irreparable damage to internal organs. It can contaminate other parts of the patient's body or even those treating the injuries. The condition of people with burns caused by white phosphorus can deteriorate rapidly. Even those with burns that cover a relatively small area of the body – 10-15 percent – who normally survive can deteriorate and die.

The Israeli authorities denied they were using WP for at least 15 days and during this crucial period, when most of the casualties occurred, the doctors in Gaza's hospitals did not know what had caused their injuries (white phosphorus had never been used by Israeli forces previously). As a result of Israel's refusal to confirm that its troops had used white phosphorus victims who could have been saved died and the conditions of others victims worsened and they had to endure additional suffering unnecessarily. Only after a number of foreign doctors arrived in the Gaza Strip, days after they had seen the casualties of white phosphorous, did local doctors learn what had caused the wounds and how to treat them.

The Israeli authorities are fully aware of the dangers of white phosphorus for human beings. Documents written during operation "Cast Lead" by the office of the Israeli army Chief Medical Officer and Medical Field Operations headquarters highlight some of the effects. A document signed by Colonel Dr Gil Hirschorn, head of trauma in the office of the army's Chief Medical Officer, states: *"When the phosphorus comes in contact with living tissue it causes its damage by 'eating' away at it. Characteristics of a phosphorus wound are: chemical burns accompanied by extreme pain, damage to tissue ... the phosphorus may seep into the body and damage internal organs. In the long run, kidney failure and the spread of infection are characteristic ... In conclusion: a wound by an ordnance containing explosive phosphorus is inherently dangerous and has the potential to cause serious damage to tissue."*¹⁴

Another document entitled "Exposure to White Phosphorus," prepared by Medical Field Operations HQ and sent from the War Room of the Health Ministry, notes that *"most of the data on phosphorus wounds stems from animal testing and accidents. Exposure to white phosphorus is highly poisonous, according to many lab experiments. Burns covering a small area of the body, 12-15 percent in lab animals and less than 10 percent in humans, may be lethal as a result of its effects, mostly on the liver, heart and kidneys."*¹⁵

Sabah Abu Halima, a mother of 10, was gravely injured and her husband and four children were killed on 4 January when three white phosphorus artillery shells crashed through the roof into her home in the village of Sayafa (north-west Gaza). Sabah abu Halima told Amnesty International from her hospital bed: *"Everything caught fire. My husband and four of my children burned alive in front of my eyes; my baby girl, Shahed, melted. How can a*

¹⁴ Document obtained by Amnesty International (Hebrew original)

¹⁵ Document obtained by Amnesty International (Hebrew original)

mother have to see her children burn? I couldn't save them. I was on fire. Now I am still burning all over, I am in pain day and night; I am suffering terribly". She remains in critical condition in hospital.

Sabah's husband, Sa'adallah Matar Abu Halima and 4 of their children: Abderrahim, 14, Zeid, 8, and Hamza, 6, and baby girl, Shahed aged 1 yr and 3 months, were all killed. At the house AI delegates found remains of the 155mm artillery WP carrier shells and of WP lumps which had caused death and injury to the Abu Halima family and extensive fire in the house. Lumps of WP were found in and around the house. Around the house were more remains of 155mm artillery WP carrier shells. They also found evidence that Israeli soldiers took over the house after the family had fled on 4 January, and damaged it further.

Three of Sabah's other children, Yousef, 'Ali and 'Omar, were also injured, as well as Sabah's daughter-in-law, Ghada (who eventually died of her injuries on 29 March in a hospital in Egypt),¹⁶ and her two-year-old daughter, Farah. No ambulances could reach the area and relatives who live nearby evacuated the survivors by tractor. The bodies were only allowed to be recovered 11 days later, on 15 January.

Other victims interviewed by Amnesty International described the excruciating pain caused by WP burns. A 16-year-old girl, **Samia Salman Al-Manay'a**, was asleep in her home in the Jabalia refugee camp, north of Gaza City, when a phosphorous shell landed on the first floor of the house at 8pm on 10 January. Ten days later, from her hospital bed, she told Amnesty International that she was still experiencing intense pain due to the burns to her face and legs. *"The pain is piercing. It's as though a fire is burning in my body. It's too much for me to bear. In spite of all the medicine they are giving me the pain is still so strong."*

Doctors described their frustration at their inability to effectively treat wounds they had never before witnessed. *"We noticed burns different from anything we had ever dealt with before,"* one burns specialist at Gaza's al-Shifa Hospital told Amnesty International. *"The first thing we noticed was cases with orange burns, different from the burns we are used to dealing with. They started with patches and after a while they would become deeper with an offensive odour and after several hours smoke started coming from the wound,"* the doctor said. *"We had a child of three years with a head injury. After three hours we changed the dressing and saw smoke coming out of the wound. We opened the wound and brought out this wedge. We had not seen it before. Later on, some colleagues, doctors from Egypt and Norway, were able to enter Gaza and told us that this was white phosphorus. "We noticed various things about this: the burn does not heal; the phosphorus may remain inside the body and goes on burning there, and the general condition of the patient deteriorates – normally with 10-15% burns, you would expect recovery, now many such patients die,"* he said.

Without knowing what they were, Palestinians whose houses were hit by phosphorous shells or burning debris from them mistakenly threw water on the flames, only for the fire to

16

http://www.btselem.org/English/Testimonies/20090104_Abu_Halima_home_set_on_fire_by_shelling.asp

intensify.

In Gaza Amnesty International delegates, including a military expert, found remains of white phosphorus all over Gaza, which continued to ignite and burn, and to pose a risk to civilians, for weeks after the end of the conflict; and also found remains of white phosphorus 155mm artillery shells (with markings M825 A1 – a US-made munitions. These are the same markings of the 155mm white phosphorus shells photographed in Israeli Defence Forces' (IDF) stockpiles, and PB-91K018-035, the lot number and indicates that they were assembled by Pine Bluff Arsenal [PB] in 1991 [91] in October [K]).

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