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## **Israel/Occupied Palestinian Territories: Israeli army probe lacks credibility and is no substitute for independent investigation**

The Israeli army should make public the full details of the findings of its probe into some of its attacks during the 22-day Gaza military offensive, Amnesty International said today in reaction to the army's conclusion that its forces had committed no violations and only rare mistakes, some of which may have resulted in the killing of Palestinian civilians.

A briefing paper distributed by the Israel Defense Forces (IDF) to journalists yesterday, which states that "All findings are to be used as background information to be attributed to the reporter only", lacks crucial details. It mostly repeats claims made by the army and the authorities many times since the early days of Operation Cast Lead, but without providing the necessary evidence to back up the allegations. Amnesty International sets out below its initial reactions to the limited number of specific incidents addressed in the army's briefing paper.

There is a strikingly large gap between the "very small number" of mistakes referred to in the IDF's briefing paper and the killing by Israeli forces of some 300 Palestinian children and hundreds of other unarmed civilians. The army briefing does not even attempt to explain the overwhelming majority of civilian deaths nor the massive destruction caused to civilian buildings in Gaza.

In the absence of the necessary evidence to substantiate its allegations, the army's claims appear to be more an attempt to shirk its responsibilities than a genuine process to establish the truth. Such an approach lacks credibility.

Ultimately, it is up to those who carried out bombardments and artillery and other attacks to provide evidence that their strikes were indeed against legitimate military targets – not for the victims to prove that they were not involved in combat activities. The information provided by the army so far fails to do so.

The deaths and injury of many civilians and the large-scale destruction in attacks which often violated international humanitarian law demand a full, independent and impartial investigation. The Israeli army must provide specific, detailed information about why targets were chosen and the means and methods of attack used in order to assess their conclusion that the IDF complied fully with international humanitarian law. The information provided in this briefing is insufficient and, in parts, contradicts evidence gathered by Amnesty International and others.

Since the beginning of February Amnesty International has repeatedly asked to meet the Israeli army to discuss concerns about violations of international humanitarian law during Operation Cast Lead, and has also submitted a detailed list of cases and issues about which it has requested information. To date the IDF has not responded to the organization's requests.

The Israeli army's probe is no substitute for a thorough, independent and impartial investigation. Amnesty International therefore calls on the Israeli authorities to reconsider their refusal to cooperate with the fact-finding mission set up by the UN Human Rights Council and headed by Judge Richard Goldstone, who has made clear its intention to investigate violations of international law by all parties to the conflict in Gaza and southern Israel.

The organization also renews its call on the UN Security Council to set up an independent international investigation into alleged war crimes and other violations of international law by all parties.

### **Amnesty International's initial reactions to specific incidents mentioned in the briefing paper distributed by the Israeli army**

**Regarding the incident which occurred near the UNRWA school (Fakhoura School) in Jabalia on 6 January 2009**, the army briefing states that "the soldiers responded with minimal and proportionate retaliatory fire, using the most precise weapon available to them". The reality is that the soldiers fired at least four mortars into a crowded street. Mortars are area weapons, which cannot be directed at a specific target and have a wide margin of error. The use of such a notoriously imprecise weapon in a crowded civilian area was virtually certain to cause civilian deaths and injury and it should have never been used. While the army contends that that a total of 12 people - five combatants and seven civilians – died in these strikes, in fact some 30 people, mostly civilians, were killed.

**Regarding the use of white phosphorus and artillery strikes on the UNRWA Headquarters in the centre of Gaza City on 15 January 2009**, the army claims that "it appears that fragments of the smoke projectiles hit a warehouse located in the [UNRWA] headquarters". In reality it was not only fragments which hit the UNRWA compound. Amnesty International researchers saw several white phosphorus artillery shells which had landed and exploded inside the compound, together with at least one high explosive artillery shell. Amnesty International has no reason to doubt the army's assurances that it did not target the UNRWA compound, as artillery is too imprecise to be used for pinpoint targeting. The issue at stake is the unlawful use of a weapon as imprecise as artillery, and moreover, artillery carrying a substance as dangerous as white phosphorus, in the middle of very densely populated residential areas.

The army's contention that "these results could not be predicted" lacks any credibility, as the army knows full well the difference between precision weapons and area weapons. Artillery is an area – not a precision – weapon.

This section of the briefing also mentions the "**Red Cross Pharmaceutical Storage facility**" in **Tal al-Hawa district of Gaza City** (which actually belonged to the Palestinian Red Crescent Society, PRCS, and not to the Red Cross), but does not specify what munitions were fired by Israeli forces. The reality is that the facility was completely burned down, seemingly as a result of being struck by white phosphorus.

The briefing does not mention that white phosphorus shells also landed on the nearby **PRCS al-Quds hospital compound on 15 January 2009**, causing extensive fire and forcing the hospital to be evacuated. There too Amnesty International researchers found material evidence of the use of such weapons: a white phosphorus carrier artillery shell and remains of burned-out white phosphorus lumps.

**Regarding the use of white phosphorus in densely populated residential areas**, the army's assertions that "no phosphorus munitions were used on built-up areas" and that the "pieces of felt dipped in phosphorus... are not incendiary" could not be further from the truth. Amnesty International researchers on the ground found hundreds of white phosphorus-impregnated felt wedges in residential areas all over Gaza, still smouldering weeks after they had been fired. They similarly found dozens of artillery shells which had delivered the white phosphorus all over Gaza. As well, there is ample photographic and TV footage of white phosphorus artillery shells fired in airburst mode exploding over densely populated residential areas and white phosphorus literally raining down over these areas.

The Israeli army is 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." (1)

Another document entitled "Exposure to White Phosphorus", prepared by Medical Field Operations headquarters and sent from 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." (2)

**Concerning "incidents involving shooting at medical facilities, buildings, vehicles and crews"**, the army briefing contends that " Hamas systematically used medical facilities, vehicles and uniforms as cover for terrorist operations" but provides no evidence for even one such case. Amnesty International does not exclude the possibility that such cases may have occurred, but found no evidence during its on-the-ground investigation that such practices, if they did occur, were widespread. Crucially, the army failed to provide any information or explanation of several well-documented cases of ambulance medics and paramedics killed and injured by IDF fire – including by precision air strikes and in one case in a tank strike with a flechette round. As well, no explanation was given for the many cases where Israeli soldiers deliberately blocked medical care to the wounded.

The section of the army briefing **concerning "incidents in which many uninvolved civilians were harmed"** is strikingly poor in details. It mentions a mere four cases, which resulted in the death of some 50 unarmed civilians, while remaining silent on the killings of hundreds of other unarmed civilians, including some 300 children.

In the case of the **tank strikes on the home of Dr Abu al-'Eish in Jabalia (north Gaza) on 17 January 2009**, the army contends that "IDF forces identified suspicious figures on the third floor of the building, raising suspicions that the figures were observing IDF forces in order to direct sniper fire from another building" and that "the regional commander took a series of measures to ensure that the suspicious figures were gunmen", and contends that "four women who were in the same house as the spotters were hit". The four women were three of Dr Abu al-'Eish's daughters and one niece – three of them children and one of them aged 21. Crucially the army provides no evidence whatsoever to substantiate its allegation that any gunmen or spotters were in Dr Abu al-'Eish's house, nor does it provide any evidence to substantiate its claim that it had "urged Dr Abu al-'Eish to leave his house".

In the case of a **missile strike on a truck carrying oxygen canisters on 29 December 2008**, the army acknowledges that its assumption that the truck had been carrying Grad missiles was mistaken, but claims that "the strike killed four Hamas operatives", as well as four uninvolved civilians, and "that the oxygen tanks being carried in the truck were likely to be used by Hamas for rocket manufacturing". However, it provides no evidence that the four were in fact Hamas combatants nor any evidence to substantiate its allegation about the likely use of the oxygen canisters.

Similarly, in the case of a **missile strike inside an UNRWA school in al-Shati' (Beach) Refugee Camp on the night between 5 and 6 January 2009**, which killed three young men by the school's toilet, the army alleges that the strike was launched "following specific intelligence and relying on suspicion that led to the conclusion that they were participating in terrorist operations". However, the army provides no evidence or information to substantiate its allegations nor any information about the measures taken to verify the

suspicious on which it says the attack relied.

Finally, the section of the army briefing about the **damage to infrastructure and destruction of buildings by ground forces** contains only general statements and does not identify even the one incident which it says was investigated. The army provides no evidence to substantiate its assertion that “overall the extent of damage caused to buildings was a direct result of the extensive use by Hamas of those same buildings for terrorist purposes and targeting IDF forces”. Amnesty International does not dispute that some of the destroyed buildings may have contained weapons or explosives or may have been booby-trapped by Palestinian armed groups. However, such cases and the targeting of legitimate military targets and incidental damage resulting from such attacks or from armed confrontations only accounts for a small percentage of the large-scale destruction.

The only evidence of explosives found by Amnesty International researchers in destroyed properties were the remains of Israeli mines, clearly identified as being Israeli from the Hebrew writing and markings. In addition, Israeli soldiers at times destroyed and frequently vandalized the houses they had taken over and used as military positions. 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 other evidence of their stay, such as ammunition boxes, spent munitions, food rations, army medical kits and other supplies, the army magazine Bmakhane and Hebrew prayer leaflets.

(1) Extract of Hebrew-language document obtained and translated into English by Amnesty International.

(2) Extract of Hebrew-language document obtained and translated into English by Amnesty International.