



UNLAWFUL AND DEADLY

ROCKET AND MORTAR ATTACKS BY PALESTINIAN ARMED GROUPS DURING THE 2014 GAZA/ISRAEL CONFLICT

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*Cover photo: A picture taken from Sderot, southern Israel, of rockets fired from the Gaza Strip into Israel, on July 13, 2014.
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EXECUTIVE SUMMARY

During the 50 days of hostilities referred to in Israel as Operation Protective Edge, between 8 July and 26 August 2014, Palestinian armed groups fired thousands of unguided rockets and mortars towards Israel, in many cases directing them towards Israeli civilians and civilian objects, in violation of international law. These attacks killed six civilians in Israel, wounded others, and damaged civilian property. The conduct of Palestinian armed groups, including firing from residential areas and the use of indiscriminate munitions that cannot be accurately directed at a military target, also endangered civilians in the Gaza Strip. In one case, the available evidence indicates that a rocket fired by a Palestinian armed group on 28 July 2014 killed 11 children and two adults in the al-Shati refugee camp, north-west of Gaza City.

This report details four cases investigated by Amnesty International in which mortar and rocket attacks by Palestinian armed groups resulted in the death of five civilians in southern Israel and injured others. It also analyses the attack on the al-Shati refugee camp on 28 July, and the conduct of Palestinian armed groups within the Gaza Strip in their operations against Israel during the 50-day conflict. The report does not address the summary killings of Palestinians in the Gaza Strip by Hamas forces for alleged “collaboration” with Israel during the July/August 2014 conflict, which will be the subject of a forthcoming report. Israeli forces also committed serious violations of international law during the hostilities, but these are not the focus of this report. Some of the Israeli violations, including attacks that constituted war crimes, have been analysed in previous Amnesty International reports, and additional reports will be published in the coming months.

The conflict during July and August 2014 brought an unprecedented level of death, destruction, damage, and injury to the occupied Gaza Strip. More than seven years of Israeli blockade, imposed in June 2007 after Hamas took over Palestinian governmental institutions in the Gaza Strip, had already inflicted a severe cumulative toll on infrastructure, health systems, and all aspects of life in the territory. The 1.8 million Palestinians living in the Strip could not leave, as the borders were sealed except for a limited number of severely injured patients transferred abroad for urgent medical treatment, and no place inside the Strip was truly safe. There are no bomb shelters or warning systems to help protect civilians in the Gaza Strip. At the height of the hostilities, an estimated 485,000 people had fled to UN schools, government schools, and other public buildings, or were staying with relatives, but several UN schools sheltering displaced civilians came under attack.

On the Israeli side, bomb shelters, advanced warning systems, and Israel’s Iron Dome missile defence system helped limit civilian casualties in many areas. However, the conflict provided renewed evidence that vulnerable communities in Israel, particularly Bedouin villages in Israel’s southern Negev/Naqab region, many of which are not officially recognized by the Israeli government, lacked protection. On both sides, civilians once again bore the brunt of the third full-scale war in less than six years.

International humanitarian law imposes obligations on all parties to an armed conflict. Failure to uphold obligations by one party cannot justify violations by their opponents. Thus,

the violations by Palestinian armed groups which are documented and analysed in this report, some of which are war crimes, do not in any way justify violations by Israeli forces during the fighting, nor do Israeli violations justify those of Palestinian armed groups.

Israeli forces and Palestinian armed groups both committed crimes under international law in previous Israel/Gaza conflicts in 2008-2009 and November 2012. Independent and impartial investigations into violations committed by both sides in the 2014 conflict, together with prosecution of those responsible in proceedings adhering to international fair trial standards, is the only way to help deter further violations and secure justice and reparation for victims and their families. Unfortunately, neither the Israeli nor the Palestinian authorities have conducted credible, independent investigations meeting international standards following previous conflicts, and those responsible for violations have consistently escaped accountability. Since the 2014 conflict, Israel's investigations into the actions of its forces have once again been conducted by the Israeli military itself, and there is no indication that the Palestinian authorities are investigating violations by Palestinian armed groups.

An independent commission of inquiry established to investigate all violations of international humanitarian and human rights law committed in the Occupied Palestinian Territories (OPT) "in the context of the military operations conducted since 13 June 2014, whether before, during or after" is due to report to the UN Human Rights Council in June 2015. Amnesty International has consistently urged both the Israeli and Palestinian authorities to co-operate with the UN Independent Commission of Inquiry on the 2014 Gaza Conflict. Israel's Ministry of Foreign Affairs announced in November 2014 that Israel would not co-operate with the Commission, and the Israeli authorities have refused to grant its investigators access to Israel or the OPT.

The pattern of impunity for serious violations and crimes, as well as evidence that both sides were committing further crimes during Operation Protective Edge, led Amnesty International to call for an International Criminal Court (ICC) investigation into crimes under international law committed in Israel and the OPT. Palestine's accession to the ICC, which will take effect on 1 April 2015, and its submission of a declaration accepting the Court's jurisdiction from 13 June 2014, are important steps towards justice for victims on both sides. The ICC Prosecutor opened a preliminary examination in January 2015 into the situation in Palestine. Amnesty International has urged all states to support the ICC's exercise of jurisdiction over Palestinian territory, and to oppose any retaliation or threats against the Palestinian authorities for acceding to the Rome Statute and accepting the Court's jurisdiction. The organization has also urged all states to suspend all transfers of arms, munitions, weapons and military equipment to Israel, Hamas and Palestinian armed groups, until substantive steps have been taken to achieve accountability for previous violations and effective mechanisms established to prevent future violations of international human rights and humanitarian law.

The Palestinian authorities should ensure that the cases documented in this report, among others, are investigated impartially and independently and that, when sufficient admissible evidence exists, suspected perpetrators are brought to justice in proceedings that fully respect international fair trial standards. In addition, they must end the use of inherently indiscriminate weapons such as unguided rockets, denounce attacks targeting civilians and indiscriminate attacks, and make clear that Palestinian armed groups must comply with

international humanitarian law.

The Israeli authorities must allow international human rights investigators, including UN-appointed investigators and special rapporteurs, as well as researchers from Amnesty International and other international human rights organizations, unrestricted access to Israel and the OPT, and in particular to the Gaza Strip. They should also provide adequate protection from rocket and mortar attacks to all Israeli citizens and residents without discrimination, which means urgently addressing the current lack of shelters in the recognized and unrecognized Bedouin villages in the Negev/Naqab.

METHODOLOGY

To investigate cases of deaths and injuries in Israel resulting from mortar attacks and one rocket attack by Palestinian armed groups during the conflict, Amnesty International researchers conducted fieldwork in Israeli towns near the Gaza border and Bedouin communities in the Negev/Naqab desert in December 2014 and January 2015.

Amnesty International researchers visited the homes of victims, the locations where the mortars and rockets landed and surrounding areas, and the locations from which helicopters picked up the injured and transported them to hospital. Researchers also conducted phone interviews with family members or others who were unable to meet in person or preferred to speak by phone, and corresponded with or spoke to spokespeople from a number of regional councils in the vicinity of the Gaza Strip.

Amnesty International studied relevant documentation produced by UN agencies, the Israeli military and Israeli governmental bodies, Israeli and Palestinian NGOs, Palestinian armed groups, and media reports, amongst other sources, and consulted with relevant experts and practitioners before writing the report. Amnesty International would like to thank the Israeli NGOs and other Israeli bodies that provided assistance to its researchers, in particular the Association for Civil Rights in Israel (ACRI), the Regional Council of the Unrecognized Villages (RCUV), B'Tselem, Worker's Hotline, Magen David Adom (MDA), and the Sha'ar HaNegev Regional Council.

Amnesty International has been unable to send a delegation of researchers, including military experts, to visit the Gaza Strip since the beginning of the July/August 2014 conflict. The Israeli authorities have refused, up to the time of finalizing this report, more than six months after the hostilities ended, to allow Amnesty International and researchers from other international human rights organizations to enter the Gaza Strip through the Erez crossing with Israel, despite the organization's repeated requests since before the beginning of the conflict. The Egyptian authorities have also not granted Amnesty International permission to enter the Gaza Strip through the Rafah crossing with Egypt, again despite the organization's repeated requests.

Amnesty International has consequently had to carry out research in the Gaza Strip remotely, supported by two fieldworkers based in Gaza who were contracted to work with the organization during and after the hostilities. One of these fieldworkers, who reached the al-Shati refugee camp about 30 minutes after a projectile exploded there on 28 July 2014, interviewed eyewitnesses, took photos, and obtained video footage taken by residents at the scene minutes after the explosion. The organization consulted on the interpretation of these photos and videos with a military expert. The fieldworker conducted additional interviews with witnesses and family members of the victims after the 26 August ceasefire, and Amnesty International also conducted follow-up interviews by phone.

Amnesty International monitored and analysed public statements by the Israeli authorities during and after the conflict. The organization sent a memorandum to the Israeli authorities on 8 October 2014, requesting detailed evidence of specific violations by Hamas or

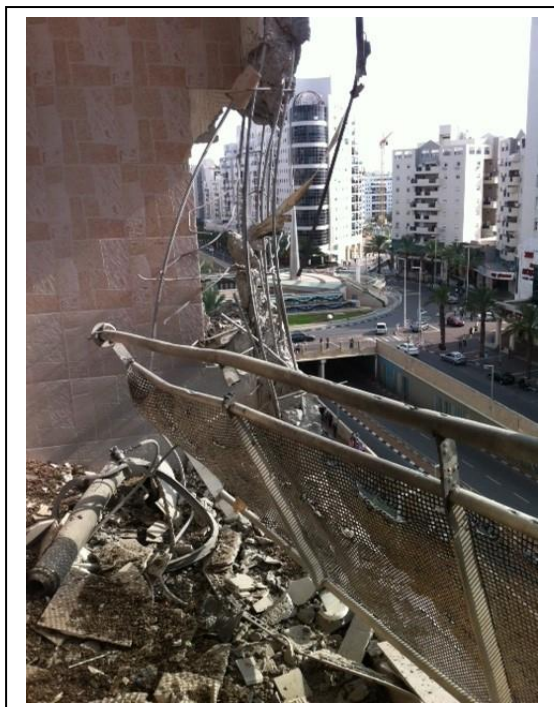
Palestinian armed groups, among other concerns. In particular, the memorandum asked for information possessed by the Israeli military or other Israeli bodies on rocket firing or other offensive action by Palestinian armed groups from civilian areas, the use of civilian buildings or installations to store or conceal munitions, and the alleged use of “human shields”. In a brief letter to the organization dated 9 November 2014, Israel’s State Comptroller noted his plans to examine Israel’s political and military decision-making processes and investigative mechanisms with respect to Operation Protective Edge. However, as this report was being finalized, no substantive response to the concerns raised in the memorandum had been received from the relevant authorities.

After almost seven years in which two separate Palestinian governments operated – one dominated by the Fatah party in the West Bank, and one run by the Hamas party in the Gaza Strip – Palestinian President Mahmoud Abbas swore in a national consensus government, including four ministers from the Gaza Strip, on 2 June 2014. The cabinet of independent technocrats was tasked with running civilian affairs in both areas and preparing for parliamentary and presidential elections. However, very significant disagreements between Fatah and Hamas remain unresolved, no date for elections has been set, and the national consensus government has yet to assume most of its functions in the Gaza Strip, where the Hamas de facto administration established in June 2007 continues to control government institutions and the security forces in practice. Thus, Amnesty International sent a letter to President Abbas and Minister of Justice Salim al-Saqqqa, one of the four Gaza-based ministers in the national consensus government, on 23 December 2014, and sent copies to senior officials in the consensus government, the Hamas administration, and the Hamas movement, including officials based abroad. The letter contained questions about a number of cases investigated by the organization that appeared to constitute serious violations of international humanitarian law, including the 28 July 2014 incident in the al-Shati refugee camp detailed in this report. The letter also detailed Palestine’s obligations under the international treaties it had ratified, and urged the Minister of Justice to establish an independent commission of inquiry to investigate alleged violations. As this report was being finalized, no response had been received.

BACKGROUND

This section presents information on the firing of rockets and mortars by Palestinian armed groups before the outbreak of the most recent hostilities in July 2014, followed by a brief overview of Israel's Operation Protective Edge and its impact on the Gaza Strip – the context of the firing of rockets and mortars by Palestinian armed group during the conflict.

ROCKET AND MORTAR ATTACKS PRIOR TO THE 2014 CONFLICT



Damage to an apartment building in Ashdod caused by a rocket attack launched by an armed Palestinian group in Gaza on 18 November 2012 during an offensive known in Israel as Operation Pillar of Defense. © Amnesty International

Palestinian armed groups have fired rockets and mortars from the Gaza Strip into Israel since 2001, intensively during some periods and at other times on a very occasional basis, with some significant periods during which fire has been halted altogether. The main groups which have claimed responsibility are: the 'Izz al-Din al-Qassam Brigades (al-Qassam Brigades), Hamas' armed wing; the al-Quds Brigades, Islamic Jihad's armed wing; the Abu 'Ali Mustafa Brigades, the armed wing of the Popular Front for the Liberation of Palestine (PFLP); the Popular Resistance Committees (PRC) (Nasser Salah al-Din Brigades); the al-Aqsa Martyrs' Brigades, Fatah's armed wing; and National Resistance Brigades, the armed wing of the Democratic Front for the Liberation

of Palestine (DFLP). According to the Israeli authorities, Palestinian armed

groups fired more than 15,200 rockets and mortars towards Israel between 2001 and the start of the latest round of hostilities on the evening of 7 July 2014, when the Israeli military launched Operation Protective Edge.¹

In all, 25 civilians, including four children and one adult foreign national, were killed in Israel by rockets and mortars launched from Gaza between June 2004, when the first fatality

¹ Israel Ministry of Foreign Affairs, *The Background to the 2014 Gaza Conflict*, no date, pp. 6-7, <http://mfa.gov.il/ProtectiveEdge/Documents/HamasCrimes.pdf> (accessed 15 March 2015) (Israel Ministry of Foreign Affairs, *Background to the 2014 Gaza Conflict*).

from such attacks occurred, and the beginning of Operation Protective Edge.² This included the three civilians killed during Operation Cast Lead in 2008/2009 and the four civilians killed during Operation Pillar of Defense in November 2012. Many other civilians have been injured, some of them very seriously, and civilian property in Israel – including homes, businesses, schools, other public buildings and vehicles – has been damaged or destroyed. Over the years, rockets and mortars launched by Palestinian armed groups have also killed Palestinian civilians in the Gaza Strip, including children.³ According to media reports, a three-year-old Palestinian girl was killed, and several of her family members injured, by a Palestinian rocket that landed in Beit Lahiya on 24 June 2014, two weeks before the hostilities erupted into full-scale war.⁴

The range of the rockets fired by Palestinian armed groups from Gaza has increased over time. Between 2001 and 2004, home-made Qassam rockets with a range of up to 10km and locally manufactured mortars were fired. Palestinian armed groups, in particular the al-Qassam Brigades, then developed longer-range Qassam rockets that could reach up to 17km. In more recent years, armed groups in Gaza have produced, upgraded or smuggled in thousands of BM-21 Grad rockets of different types, with ranges varying from 20km to 48km, and acquired or produced smaller numbers of medium and long-range rockets. The latter include the Iranian Fajr 5 and locally produced M-75 (both with a range of 75km), and the locally produced J-80 rockets with a range of 80km. Israel claimed in March 2014 that M-302 rockets (which have a range of approximately 160km) from Iran found on the Klos C, a merchant ship intercepted by the Israeli navy in the Red Sea, were bound for Gaza via Sudan

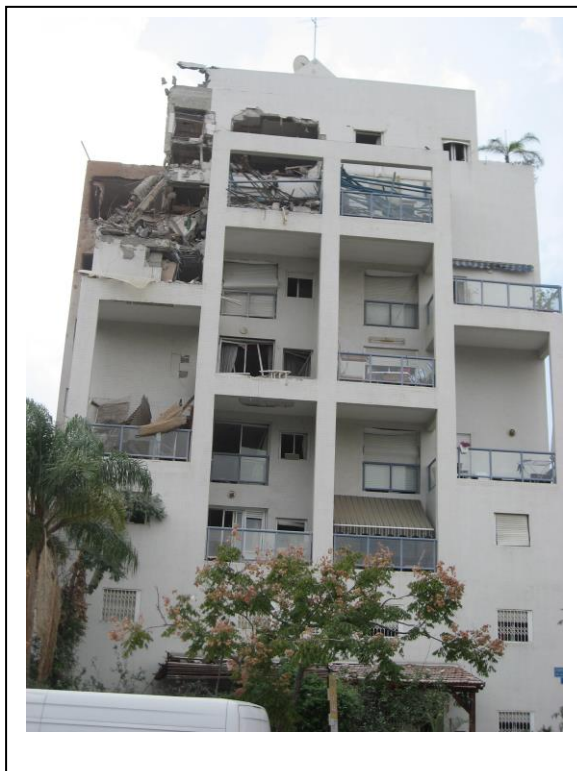
² The Israeli human rights organization B'Tselem provided a full list of civilians in Israel killed in rocket and mortar attacks since 2004; summary data is available at

http://www.btselem.org/israeli_civilians/qassam_missiles (accessed 15 March 2015). In addition, one Israeli civilian and three foreign workers were killed by rocket or mortar fire at Israeli settlements in the Gaza Strip before Israel withdrew its civilian settlers from Gaza in August 2005. A 16-year-old Israeli, Daniel Viflic, was killed by an anti-tank missile fired from the Gaza Strip that hit a school bus near Kibbutz Sa'ad in the Negev/Naqab in April 2011.

³ It is very difficult to ascertain precise figures over time. In some attacks investigated by Amnesty International, researchers have found that the deaths or injuries of Palestinian civilians in Gaza were most likely caused by indiscriminate munitions fired by Palestinian armed groups. In other cases, Amnesty International has been unable to conduct field investigations to determine whether Israeli or Palestinian munitions was responsible, particularly since the Israeli authorities effectively denied the organization access to the Gaza Strip in late 2012. Between early 2005 and the start of Operation Protective Edge, the Israeli human rights organization B'Tselem, which has fieldworkers in Gaza, documented the deaths of 11 Palestinian civilians in the Gaza Strip, eight of them children, due to rockets fired by Palestinian armed groups, but the true figure may well be higher.

⁴ Ma'an News Agency, "Explosion kills girl in Beit Lahiya", 25 June 2014, <http://www.maannews.com/eng/ViewDetails.aspx?id=707588> (accessed 15 March 2015); Matan Tzuri and Yoav Zitun, "Gaza rocket misfires, kills 3-year-old Palestinian girl", 25 June 2014, <http://www.ynetnews.com/articles/0.7340.L-4534231.00.htm> (accessed 15 March 2015); Orlando Crowcroft, "Caught in the crossfire of Gaza's war with Israel", *The National*, 25 June 2014, <http://www.thenational.ae/world/middle-east/caught-in-the-crossfire-of-gazax2019s-war-with-israel#full> (accessed 15 March 2015).

and Egypt.⁵ During Operation Protective Edge, the al-Qassam Brigades claimed to have fired R-160 rockets, a locally produced version of the M-302, also with a range of 160km.⁶



Damage to apartment buildings in Rishon LeZion caused by a rocket fired on 20 November 2012 from the Gaza Strip, during the eight-day Israel/Gaza conflict. © Amnesty International

The longer-range rockets have dramatically increased the number of civilians in Israel and the occupied West Bank who are within range of projectiles fired from Gaza. The majority of Israel's 8.3 million people, and all 2.8 million Palestinians in the occupied West Bank, are now within range of at least some of the rockets held by Palestinian armed groups in the Gaza Strip. During periods when rocket and mortar fire from Gaza is intense, major Israeli cities including Ashkelon, Be'er Sheva, Ashdod, Jerusalem, Tel Aviv, Holon, B'nei B'rak, Bat Yam, Rishon LeZion, Petah Tikva, Netanya, Rehovot, and even Haifa, are now affected. In each of the three major Gaza/Israel conflicts over the last six years (December 2008 to January 2009, November 2012, and July-August 2014), the circle of fear has widened, and the

number of civilians who have suffered disruption, displacement, and trauma has increased. All the rockets used by Palestinian armed groups – including the M-75, Fajr 5, J-80, M-302 and R-160 – are unguided projectiles which cannot be accurately directed at specific targets. The inaccuracy of these rockets increases with the range. A military expert consulted by Amnesty International estimated that the M-75, Fajr 5 and J-80 rockets could land as far as 3km away from a purported target, and that the M-302 and R-160 rockets could land 6km or more from any purported target.

Following the ceasefire declared at the end of Israel's Operation Pillar of Defense on the evening of 21 November 2012, no rockets or mortars were fired from the Gaza Strip for over

⁵ Israel Ministry of Foreign Affairs, "Missile shipment from Iran to Gaza intercepted", 5 March 2014, <http://mfa.gov.il/MFA/PressRoom/2014/Pages/Missile-shipment-from-Iran-to-Gaza-intercepted-5-Mar-2014.aspx> (accessed 15 March 2015).

⁶ Al-Qassam Brigades, "R160, J80 and commandos the first surprises of al-Qassam", 9 July 2014, <http://www.alqassam.ps/arabic/#!/5923/التقارير> (in Arabic, accessed 15 March 2015).

three months. Beginning on 26 February 2013, rockets and mortars were fired from Gaza on more than 25 occasions during 2013, damaging civilian property in three cases.⁷ During the first half of 2014, sporadic rocket and mortar fire continued, escalating between 11 and 13 March, when Islamic Jihad's al-Quds Brigades fired dozens of rockets and mortars into southern Israel after an Israeli air strike killed three of its members. There was a significant increase in rocket and mortar fire from mid-June 2014, with at least 250 rockets and dozens of mortars hitting the western Negev/Naqab region, particularly the city of Sderot, between 14 June and 7 July, causing minor injuries and damaging or destroying civilian property, including a nursery school and a paint factory.⁸ During the same period, Israeli forces arbitrarily arrested hundreds of Palestinians in the West Bank during a military operation launched after the abduction of three Israeli teenagers on 12 June, and the Israeli military carried out dozens of air strikes on the Gaza Strip.

OPERATION PROTECTIVE EDGE

Late on 7 July 2014, Israel announced Operation Protective Edge, with the stated goal of stopping rocket attacks from Gaza on Israeli civilians. A ground operation followed, launched on the night of 17 July. According to the Israeli army, one of the primary objectives of the ground operation was to destroy the tunnel system constructed by Palestinian armed groups, particularly those with shafts discovered near residential areas located in Israel near the border with the Gaza Strip. Residents in Kibbutz Nirim told Amnesty International that a number of tunnels were located in the vicinity of towns along the Gaza perimeter fence in the Sha'ar HaNegev Regional Council.⁹ The Sha'ar HaNegev Regional Council spokesperson, Michal Sheben-Kotzer, said that during the hostilities there were two incidents of Palestinian armed group members trying to enter communities in the district through tunnels: one in an open area between Kibbutz Nir Am and Kibbutz Erez and Sderot, and the second next to Kibbutz Nahal Oz.¹⁰ In both cases, as well as in two incidents when Palestinian fighters entered Israel through tunnels further south, near Kibbutz Sufa and Kibbutz Ein HaShlosha, Israeli troops killed the fighters and there were no Israeli civilian casualties.

The scale of death, destruction, displacement and injury wrought by Israeli forces in the Gaza Strip during the 50-day war in July and August 2014 was unprecedented. According to the

⁷ Israel Ministry of Foreign Affairs, "Rocket fire from Gaza and Palestinian ceasefire violations after Operation Cast Lead (Jan 2009)", last updated 25 December 2014, http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Pages/Palestinian_ceasefire_violations_since_end_of_Operation_Cast_Lead.aspx (accessed 15 March 2015) (Israel Ministry of Foreign Affairs, "Rocket fire from Gaza after Operation Cast Lead").

⁸ Israel Ministry of Foreign Affairs, "Rocket fire from Gaza after Operation Cast Lead"; Israel Ministry of Foreign Affairs, "Sderot factory destroyed by rocket fire", 29 June 2014, <http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Pages/Sderot-factory-destroyed-by-rocket-fire-29-Jun-2014.aspx> (accessed 15 March 2015); Israel Ministry of Foreign Affairs, *Background to the 2014 Gaza Conflict*, p. 18.

⁹ Ayelet Ram, Magen David Adom volunteer ambulance driver, and Nava Etzion, wife of Ze'ev Etzion, who was killed in a mortar attack on 26 August 2014, interviewed separately in Kibbutz Nirim on 22 December 2014.

¹⁰ Letter to Amnesty International Israel from the Sha'ar HaNegev Regional Council spokesperson's office, 22 December 2014.

UN Office for the Coordination of Humanitarian Affairs (OCHA), over 2,250 people were killed in the Gaza Strip, at least 1,585 of whom were civilians, including 538 children and 306 women.¹¹ More than 11,000 Palestinians were injured, up to 10% of them permanently.¹² At the height of the hostilities, an estimated 485,000 people in the Strip were internally displaced, living in dire conditions in emergency shelters in UN or government schools, in public buildings, or with host families.¹³ There are no bomb shelters or warning systems to help protect civilians in the Gaza Strip, and nowhere was truly safe during the hostilities; on several occasions civilians were killed when UN schools designated as emergency shelters came under fire.

Across the Gaza Strip, homes were destroyed or severely damaged in Israeli attacks, and in some areas entire neighbourhoods were left in rubble. According to damage assessments conducted by UN agencies and the Ministry of Public Works and Housing, 16,245 housing units were destroyed or rendered uninhabitable, leaving approximately 117,000 people homeless, while over 100,000 other housing units were damaged.¹⁴ This added to a very substantial housing deficit that predated the 2014 hostilities, due largely to severe restrictions on imports of construction materials imposed by Israel as part of the blockade since June 2007, and the destruction of homes in the 2008-2009 and 2012 conflicts. The essential infrastructure in Gaza was seriously affected; not only was its only power plant severely damaged, but the damage to the water and wastewater system left 20-30% of households without access to municipal water.¹⁵ Commercial property, farmland, agricultural infrastructure, health facilities, and educational institutions all suffered heavy damage during the conflict. Gaza's economy, already heavily aid-dependent from the cumulative effects of seven years of Israeli blockade, was further devastated, with almost 45% of the workforce unemployed in the fourth quarter of 2014, one of the highest rates in the world.¹⁶ More than six months after the conflict, reconstruction has barely begun, due to continuing Israeli restrictions on imports, unfulfilled donor pledges, and ongoing disputes between the national consensus government based in Ramallah and the Hamas authorities in Gaza. In January

¹¹ OCHA, *Protection of Civilians Weekly Report, 28 October - 3 November 2014*, 7 November 2014, p. 4, http://www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_report_2014_11_07_english.pdf (accessed 15 March 2015); OCHA, *Humanitarian Bulletin, December 2014*, 29 January 2014, p. 2, http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_01_27_english.pdf (accessed 15 March 2015) (OCHA, *Humanitarian Bulletin, December 2014*).

¹² OCHA, *Humanitarian Bulletin, December 2014*, p. 2.

¹³ OCHA, *Occupied Palestinian Territory: Gaza Emergency Situation Report*, 4 September 2014, p. 2, http://www.ochaopt.org/documents/ocha_opt_sitrep_04_09_2014.pdf (accessed 15 March 2015) (OCHA, *Gaza Emergency Situation Report*, 4 September 2014).

¹⁴ Palestine Shelter Cluster, *Shelter Cluster - Gaza Situation Report, December 2014*, p. 2, <http://www.shelterpalestine.org/DocumentsDetails.aspx?id=87> (accessed 15 March 2015). Damage assessments continue, and the total number of homes destroyed or rendered uninhabitable during the hostilities may well be higher.

¹⁵ OCHA, *Gaza Emergency Situation Report*, 4 September 2014, p. 3.

¹⁶ OCHA, *Humanitarian Bulletin, January 2015*, p. 8, 26 February 2015, http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_02_25_english.pdf (accessed 15 March 2015) (OCHA, *Humanitarian Bulletin, January 2015*).

2015, about 100,000 people were still displaced, with more than 10,500 still living in collective shelters run by the UN Relief and Works Agency for Palestine Refugees (UNRWA).¹⁷

Israeli forces committed serious violations of international humanitarian law, including war crimes, during the hostilities. Israeli violations included direct attacks on civilians and civilian objects using precision weaponry, and attacks using munitions such as artillery, which cannot be precisely targeted, on very densely populated residential areas. Some of the Israeli violations, including attacks that constituted war crimes, have been analysed in previous Amnesty International reports,¹⁸ and additional reports will be published in the coming months. In addition to firing thousands of rockets and mortars in violation of international humanitarian law, as detailed in this report, Hamas forces also summarily killed at least 23 people in the Gaza Strip who allegedly “collaborated” with Israel. Amnesty International condemned these killings during the conflict,¹⁹ and collected testimonies to document them following the cessation of hostilities. They will be the subject of a forthcoming report.

¹⁷ OCHA, *Humanitarian Bulletin*, January 2014, p. 9.

¹⁸ Amnesty International, *Israel and the Occupied Palestinian Territories: Evidence of medical workers and facilities being targeted by Israeli forces in Gaza* (Index: MDE 15/023/2014), 7 August 2014 (<https://www.amnesty.org/en/documents/mde15/023/2014/en/>); Amnesty International, *Families under the rubble: Israeli attacks on inhabited homes* (Index: MDE 15/032/2014), 5 November 2014 (<https://www.amnesty.org/en/documents/mde15/032/2014/en/>); Amnesty International, *'Nothing is immune': Israel's destruction of landmark buildings in Gaza* (Index: MDE 15/029/2014), 9 December 2014 (<https://www.amnesty.org/en/documents/mde15/029/2014/>).

¹⁹ Amnesty International, “Gaza: Hamas must end summary executions as ‘informers’ face firing squad”, 22 August 2014 (<https://www.amnesty.org/en/articles/news/2014/08/hamas-must-end-summary-executions-informers-face-firing-squad/>).

FIRING OF ROCKETS AND MORTARS DURING THE 2014 CONFLICT

According to UN data, Palestinian armed groups fired 4,881 rockets and 1,753 mortars towards Israel between 8 July and 26 August 2014.²⁰ At least 243 of these projectiles were intercepted by Israel's Iron Dome missile defence system, while at least 31 fell short and landed within the Gaza Strip.²¹

Throughout the 50 days of hostilities, Israel used its Iron Dome system to intercept and destroy short and medium-range rockets fired from distances of up to 70km to protect civilian areas from projectiles launched from the Gaza Strip. The Iron Dome system did not operate in the Israeli towns located near the border with the Gaza Strip, where an alarm system sounded "colour red" alert sirens when a projectile was identified as having been launched in their direction. Residents of those towns would then rush to enter the built-in protected room (*mamad*) in their homes or public shelters: for mortars the time needed to seek shelter was between three and five seconds, and for rockets about 15 seconds.

Residents of Kibbutz Nirim interviewed by Amnesty International stressed that the Iron Dome system does not cover numerous towns and other localities near the border with the Gaza Strip – a total of about 60 towns located in four regional councils: Merhavim, Hof Ashkelon, Sha'ar HaNegev and Eshkol. Michal Sheben-Kotzer, the spokesperson of Sha'ar HaNegev Regional Council, told Amnesty International that during the hostilities 640 rockets were fired in the direction of the geographic area covered by the regional council; most hits were in two kibbutzim (co-operative communities), with 270 landing in Nahal Oz, and 115 in Kfar Aza.²² A spokesperson for the Eshkol Regional Council told Amnesty International's researchers that 1,303 rockets fell in its jurisdictional boundaries during the conflict, some of them without triggering any warning alarms.

Six civilians in Israel, including one child, and 66 Israeli soldiers were killed during the fighting. Another Israeli soldier was severely injured while he was on leave by a rocket that

²⁰ UN Department of Safety and Security (UNDSS), cited in "Addendum to Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1: The human rights situation in the Occupied Palestinian Territory between 12 June and 26 August 2014, including the escalation of hostilities between the State of Israel and Palestinian armed groups in Gaza," A/HRC/28/80/Add.1, 26 December 2014, p. 8.

²¹ UNDSS, cited in OCHA, *Humanitarian Bulletin, June-August 2014*, p. 19, http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_10_03_english.pdf (accessed 15 March 2015). Other sources give much higher figures for the number of rockets and mortars intercepted by Iron Dome. See, for example, YNet, "Operation Protective Edge in numbers", 27 August 2014, <http://www.ynetnews.com/articles/0,7340,L-4564678,00.html> (accessed 15 March 2015), which reports that over 735 rockets and mortars were intercepted.

²² Letter to Amnesty International Israel from Sha'ar HaNegev Regional Council spokesperson's office, 22 December 2014.

struck Gan Yavne on 22 August; he died of his wounds on 29 August.²³ One of the civilians killed was a foreign national from Thailand who came to Israel as an agricultural labourer and was allocated by an agency to an employer in the town of Netiv HaAsara near the Israeli side of the Gaza perimeter fence. Israeli civilians were injured from rocket and mortar shrapnel.²⁴ Magen David Adom (MDA), the Israeli national movement of the Red Cross, reported treating a total of 836 injuries, including 36 people who were injured by shrapnel, 33 people who were injured by shattered glass or building debris during rocket and mortar attacks, and 159 people who fell or were injured while running to shelters when alarms sounded.²⁵ Some 1,600 civilians in Israel, including more than 270 children, were treated at hospitals for various types of injuries suffered during rocket and mortar attacks, according to the Israeli Ministry of Health.²⁶

The injured included people involved in assisting or transporting casualties. According to the Israeli Ministry of Foreign Affairs, on 24 August 2014, three taxi drivers were injured by mortar and rocket attacks, two of them seriously, while waiting at the Erez Crossing to transport residents of the Gaza Strip to Israeli medical facilities where they were scheduled to receive treatment for their injuries sustained during Israeli attacks. The attacks forced the temporary closing of the crossing.²⁷

Many Israeli families in the districts bordering the Gaza Strip left their homes and stayed with relatives or others in other towns further north. The Sha'ar HaNegev Regional Council recorded a sharp rise in the number of people who sought treatment from social services for mental health issues related to anxiety induced by the rocket.²⁸

Scores of rocket and mortar hits in built-up areas damaged civilian property, including residential homes, infrastructure, public buildings, and educational institutions.²⁹ Out of the

²³ Israel Ministry of Foreign Affairs, "Netanel Maman, wounded by rocket, dies of wounds", 29 August 2014, <http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Victims/Pages/Netanel-Maman.aspx> (accessed 15 March 2015).

²⁴ For example, Yelena Yakimowski from Nahal Oz sustained moderate injuries as a result of a direct mortar hit on her house; Dr Nahmi Paz, from Kibbutz Kfar Aza, was injured from mortar shrapnel at the entrance to the Kibbutz. Letter to Amnesty International Israel from Sha'ar HaNegev Regional Council spokesperson's office, 22 December 2014.

²⁵ Magen David Adom, "Cease fire in Operation 'Protective Edge' is holding, MDA sums up 50 days of saving lives", 29 August 2014, <http://www.mdais.com/316/7004.htm> (accessed 15 March 2015).

²⁶ Israel Ministry of Foreign Affairs, *Violations of the Law of Armed Conflict, War Crimes, and Crimes Against Humanity Committed by Hamas and Other Terrorist Organizations During Operation Protective Edge*, no date, p. 4, <http://mfa.gov.il/ProtectiveEdge/Documents/HamasCrimes.pdf> (accessed 15 March 2015) (Israel Ministry of Foreign Affairs, *Hamas' Violations of the Law*). This figure likely includes those treated for shock or anxiety attacks.

²⁷ Israel Ministry of Foreign Affairs, "Erez Crossing closed today due to mortar fire", 24 August 2014, <http://mfa.gov.il/MFA/PressRoom/2014/Pages/Erez-Crossing-closed-today-due-to-mortar-fire-24-Aug-2014.aspx> (accessed 15 March 2015).

²⁸ Letter to Amnesty International Israel from Sha'ar HaNegev Regional Council spokesperson's office, 22 December 2014.

²⁹ For example, the Orgentero and Schwartzman family homes in Kfar Aza were damaged by rockets that

thousands of rockets and mortars fired towards Israel by Palestinian armed groups during the 50-day conflict, approximately 224 rockets and mortars hit Israeli residential areas.³⁰ By the end of the conflict on 26 August, the Israel Tax Authority had already paid the equivalent of some US\$20 million as compensation for “direct damages”, including damage to buildings and vehicles.³¹

As a result of the rocket and mortar strikes, many fires spread in built-up areas and in agricultural fields. The agricultural sector incurred significant damage, especially in areas adjacent to the Gaza perimeter fence, Sha’ar HaNegev Regional Council spokesperson Michal Sheben-Kotzer told Amnesty International.³²

In general, Amnesty International was unable to determine any possible targets of Palestinian rockets and mortars fired during the conflict, due to the fact that Palestinian armed groups did not specify their targets in many cases, as well as the lack of publicly available information on the precise location of military targets in or near Israeli urban areas. Military objectives are located in close proximity to civilian areas in many parts of Israel. The



House in Be'er Sheva hit by a rocket fired from the Gaza Strip, 10 July, 2014. © Danny-w

headquarters of the Israeli army is in a densely populated area of central Tel Aviv. In Ashkelon, Sderot, Be'er Sheva and other cities in the south of Israel, as well as elsewhere in the country, military

bases and other installations are located in or around residential areas, including

hit them directly, and the art gallery of Shosh Segev in Kfar Aza was damaged by a direct rocket hit. Letter to Amnesty International Israel from Sha’ar HaNegev Regional Council spokesperson’s office, 22 December 2014.

³⁰ YNet, “Operation Protective Edge in numbers”, 27 August 2014, www.ynetnews.com/articles/0,7340,L-4564678,00.htm (accessed 15 March 2015).

³¹ YNet, “Operation Protective Edge in numbers”, 27 August 2014, www.ynetnews.com/articles/0,7340,L-4564678,00.htm (accessed 15 March 2015).

³² Letter to Amnesty International Israel from Sha’ar HaNegev Regional Council spokesperson’s office, 22 December 2014.

kibbutzim and villages. During Operation Protective Edge, there were more Israeli military positions and activities than usual close to civilian areas in the south of Israel, and Israeli forces launched daily artillery and other attacks into Gaza from these areas along Gaza's perimeter.

Palestinian armed groups do appear to have aimed some mortars at military objectives. Mortars have a shorter range (of 3km to 10km) than rockets, but are still an imprecise weapon and must therefore never be used to target military objectives located amidst civilians or civilian objects. The longer the range, the more inaccurate the mortar round, but numerous other variables including the stability of the weapon system, calculation of trajectory and charge conditions can also affect accuracy. Even in the hands of a highly experienced and trained operator, a mortar round can never be accurate enough to hit a specific point target. Hence, when mortars are used with the intent of striking military targets located in the vicinity of civilian concentrations, but strike civilians or civilian objects instead, they constitute indiscriminate attacks. Indiscriminate attacks that kill or injure civilians constitute serious violations of international humanitarian law and are war crimes. Throughout the conflict, and in particular during the final week, Palestinian armed groups fired numerous mortars with a range of 6-8km in the direction of Israeli towns located near the border with Gaza.

As already mentioned, all the rockets used by Palestinian armed groups, with ranges varying from 10km to 160km, are unguided projectiles that cannot be directed at specific targets. In other words, these weapons cannot be accurately aimed in a manner that distinguishes between military objectives and civilian objects, as required by international humanitarian law; they are inherently indiscriminate and using them is likely to injure and kill civilians and damage civilian objects. International humanitarian law prohibits the use of weapons that are by nature indiscriminate. Using prohibited weapons is a war crime.

It appears that in many cases throughout the 2014 hostilities Palestinian armed groups launched both rockets and mortars in the general direction of residential centres in towns surrounding the Gaza Strip and cities in southern and central Israel. The al-Qassam Brigades, the military wing of Hamas, issued statements throughout the hostilities, in some cases several times a day, claiming responsibility for rocket and mortar attacks directed at specific Israeli communities.³³ These statements, most of which specified the time of each attack, the community (or in rarer cases, the military base) targeted, and the munition used indicate that these attacks were directed at civilians or civilian objects. The al-Quds Brigades, affiliated with Islamic Jihad, issued similar statements about their attacks on populated areas in Israel.³⁴ Frequently the statements claimed that the attacks were committed in reprisal for Israeli abuses or aggression. The al-Qassam Brigades also warned Israeli civilians living in "the Gaza rim and the towns close by... not to return to their homes. Those of them who stay

³³ See <http://www.alqassam.ps/arabic/#!/5211/البيانات/> for the last statement (in Arabic) issued during the hostilities, at 7pm on 26 August 2014, which claimed responsibility for rocket attacks on Ofakim, Kiryat Malakhi, Ashdod, Rehovot, Netivot, Tel Aviv, and Be'er Sheva. Scroll down the left column for all the prior statements (in Arabic). Accessed 12 March 2015.

³⁴ Statements of the al-Quds Brigades during the conflict are available in Arabic at <http://saraya.ps/statements/>.

out of necessity should remain inside shelters and protected places”.³⁵ When rocket or mortar attacks are intended to strike homes, civilian infrastructure or civilians, they are direct attacks on civilians or civilian objects. Such attacks constitute serious violations of international humanitarian law and are war crimes.

³⁵ Al-Qassam Brigades, “Press Release of Abu Obeida, Al Qassam spokesperson”, 20 August 2014, www.qassam.ps/statement-1509-Press_Release_of_Abu_Obeida_Al_Qassam_spokesperson.html (accessed 15 March 2015).

ATTACKS THAT KILLED CIVILIANS IN ISRAEL

Six civilians, including one child, were killed in Israel as a result of rocket or mortar attacks by Palestinian armed groups during the July/August 2014 conflict.

The four cases detailed below pertain to the deaths of five of the civilians: Ouda Jumi'an al-Waj, 32, at his home in the village of Qasr al-Sir near the Israeli city of Dimona, on 19 July; Narakorn Kittiyangkul, 36, in Netiv HaAsara on 23 July; Daniel Tregerman, 4, in Kibbutz Nahal Oz on 22 August; and Ze'ev Etzion, 55, and Shahar Melamed, 43, in Kibbutz Nirim on 26 August.

Ouda al-Waj was killed by a rocket, whereas all the other deaths resulted from mortar attacks on Israeli communities very close to the Gaza Strip border. While there were military objectives located in the vicinity of some of these communities, mortars, an imprecise weapon, should not have been used against military objectives located near civilians or civilian objects. Thus, the three attacks which killed Narakorn Kittiyangkul, Daniel Tregerman, Ze'ev Etzion and Shahar Melamed were indiscriminate attacks and war crimes. The rocket which killed Ouda al-Waj was unguided; the use of such inherently indiscriminate weapons is prohibited under international humanitarian law, which means that firing the rocket was a war crime.

The case of Ouda Jumi'an al-Waj includes, in addition, details of a separate rocket attack on 14 July that injured two sisters – Atheer al-Wakili, 13, and Maram al-Wakili, 11 – in the unrecognized Bedouin village of Awajan. This attack was one incident that prompted an urgent appeal to the High Court of Justice demanding that the Israeli government provide protection for residents of both the recognized and unrecognized Bedouin villages in the Negev/Naqab, and offers additional evidence of the toll caused by the complete lack of protection in these communities.

Amnesty International researchers were not able to document the death of Dror Hanin, the sixth civilian who died in Israel during the conflict. He was killed by a mortar attack on 15 July when delivering food to Israeli army troops positioned near the Erez Crossing between Israel and the Gaza Strip.³⁶ Amnesty International considers him to have been a civilian, since he was not directly participating in hostilities at the time, but it is not clear that he was killed in an unlawful attack, since the attack appears to have been directed at a military objective.

DEATH OF OUDA LAFI AL-WAJ, QASR AL-SIR, 19 JULY

On 19 July 2014, Ouda Jumi'an al-Waj, 32, who worked as a security guard at the Rotem

³⁶ Israel Ministry of Foreign Affairs, "Dror Hanin", 15 July 2014, <http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Victims/Pages/Dror-Hanin.aspx> (accessed 11 March 2015).

fertilizer plant in Be'er Sheva, was killed and four members of his family were injured when a rocket fired by a Palestinian armed group from the Gaza Strip hit the yard just outside their home in the Bedouin village of Qasr al-Sir, near the city of Dimona in southern Israel. His wife, Khitam, 24, and three-month-old daughter Aya were in the home at the time. They survived the attack, but Aya was seriously wounded, while Khitam was lightly injured. Ouda's sister Salma, 27, and nephew 'Ali, four and a half, were also lightly injured.

Amnesty International was unable to determine the type of rocket fired or find any claims of responsibility by a specific armed group. Firing indiscriminate munitions is a war crime under international law.

Qasr al-Sir, which has a population of around 6,000 people, is one of the Bedouin villages in the Negev/Naqab that has been officially recognized by the Israeli government and is part of the Neve Midbar Regional Council. It has two elementary schools, a high school, and a basic health clinic. Only the road leading to the schools and clinic is paved. Despite its recognition by the state in 1999, the village is not connected to the national electricity grid, and its homes rely on rudimentary pipes laid above ground by the villagers to bring water from collective water points. Even though the village is recognized, the authorities have not approved a detailed master plan for the village, which means its residents cannot request building permits and many homes have demolition orders.³⁷

In a phone interview,³⁸ Silman Eid al-Waj, Khitam's uncle, told Amnesty International that on 19 July 2014, at approximately 11am, a rocket launched from the Gaza Strip "hit right next to the house of Ouda's family and injured almost everyone inside". He recounted:

Ouda's daughter was injured and is still in the hospital, Alyn Hospital in Jerusalem. His sister was injured, and his nephew as well. Shrapnel hit his wife.

No one came to take them to the hospital, so the family had to use their own cars. We don't consider calling ambulances because we know they cannot find the house and won't come. Ouda died, and his daughter was hospitalized and remains in the hospital until today.

Silman al-Waj said that the house was built with a corrugated metal roof, since village residents are unable to obtain construction permits to build with concrete. "There is a demolition order against the house. In launching the rocket, Hamas actually helped the Israeli government by demolishing the house. Ouda's tractor and motorcycle were also destroyed," he said.

Ouda al-Waj's family were staying at Silman al-Waj's house at the time of the interview, after their home was destroyed, and "his wife spends most of her time at the hospital with her

³⁷ Negev Coexistence Forum for Civil Equality, "The Arab Bedouin Villages in the Negev-Naqab: Gasir as-Sirr", interactive map, <http://www.dukium.org/village/%D7%A7%D7%A1%D7%A8-%D7%90-%D7%A1%D7%99%D7%A8/> (accessed 11 March 2015).

³⁸ Conducted on 22 December 2014. When Amnesty International spoke to him again on 12 March 2015, Ouda's baby daughter Aya was still hospitalized.

daughter, while her son stays with us," he told Amnesty International's researchers.

They don't have anywhere else to go. They did not receive any compensation from the government. The Jewish Agency paid them 4,000 Israeli shekels [about US\$990]. Now the only thing they get is a monthly stipend from social security.

... Everyone has forgotten us. That's how it works. First, the journalists leave, then everyone else goes. Without the media, there is no interest in helping us. What can a social worker do against a rocket coming towards you? What can he say to the children?

Bedouin communities in both recognized and unrecognized villages in southern Israel do not have access to shelters, and the alarm system of sirens warning of oncoming projectiles from Gaza does not function in these communities.

Sana Ibn Bari, a lawyer working with the Association for Civil Rights in Israel (ACRI), told Amnesty International about the situation of Bedouin communities in southern Israel, during a meeting at the organization's Be'er Sheva offices on 17 December 2014:

People did not know whether the rockets were going to hit their houses or not. During the war, the IDF used the Iron Dome to protect the [Jewish] Israeli population. However, when the rockets were going to land in our villages, they treated it as if it were an open area. This fact was recognized by the IDF itself.

Both the Iron Dome missile defence system and the Home Front Command warning sirens system are designed to prioritize "strategic" installations, such as military bases and power stations, and densely populated areas. After the rocket attack which injured two girls in the unrecognized village of Awajan, described below, the IDF confirmed that the village was defined as an "open area",³⁹ in other words, non-residential. The Home Front Command has 204 siren zones, all of which are residential areas or areas surrounding strategic installations.⁴⁰ Commenting on the rocket attacks on Bedouin communities, a senior IDF officer told the Israeli newspaper *Haaretz*, "We protect every gathering of people we know of, not every Bedouin encampment throughout the Negev."⁴¹ The siren system also depends on electricity; unrecognized villages and most recognized Bedouin villages are not connected to the electricity network.

Sana Ibn Bari explained:

The Bedouin community is lacking information about security measures and procedures during wartime... Even in the recognized Bedouin villages, the

³⁹ Jack Khoury, Shirley Seidler, and Gili Cohen, "Bedouin in south unprotected from rocket fire", *Haaretz*, 16 July 2014, <http://www.haaretz.com/news/diplomacy-defense/1.605416> (accessed 13 March 2015).

⁴⁰ Gili Cohen, "The science behind Israeli sirens", *Haaretz*, 24 August 2014, <http://www.haaretz.com/news/diplomacy-defense/premium-1.612134> (accessed 13 March 2015).

⁴¹ Gili Cohen, "The science behind Israeli sirens", *Haaretz*, 24 August 2014, <http://www.haaretz.com/news/diplomacy-defense/premium-1.612134> (accessed 13 March 2015).

population complains about not being able to hear the alarms. The army's solution was to send cars with speakers to these villages, but they only arrived at the end of the war.

Silman al-Waj told Amnesty International:

Without bomb shelters, there is nothing we can do. We don't get any help from the authorities. They don't even give instructions on how to protect yourself from rocket attacks. Once I heard something on the radio. They say that when there is an alarm you should lie down and put your hands on your head. But in the case of Ouda [al-Waj], he died while he was sleeping, so it wouldn't have helped at all.

We need real protection. This is the first time that the village has been targeted. There are no alarms. We are actually 5km from Dimona. At the funeral, we asked for help with shelters. They said they could not help us because we are the Bedouin 'diaspora'.

"Diaspora" or "dispersion" is a term used by the Israeli authorities to refer to the Bedouin communities in the Negev/Naqab outside of the seven townships established by the Israeli government. Despite claims by the Israeli authorities that these communities are sparsely populated, many of the communities (including Qasr al-Sir and Awajan) have thousands of residents. Overall, some 100,000 people live in recognized and unrecognized Bedouin villages in the Negev/Naqab, with more than 70,000 living in villages not recognized by the Israeli government, even though some of these predate the establishment of the state in 1948, while others resulted from the forced resettlement of Bedouin by the state in the 1950s.

On 16 July 2014, lawyers from the Association for Civil Rights in Israel (ACRI), Auni Banna and Nisreen Alyan, filed an urgent petition to the Israeli High Court of Justice, requesting that the Home Front Command and other government authorities provide Bedouin communities in recognized and unrecognized villages with protective facilities, including mobile shelters and alarm systems.⁴² The petition followed repeated requests by village residents and human rights organizations over several years for these communities to receive protection from projectiles launched from Gaza; these requests did not prompt any action by the authorities. In a hearing on 17 July, the state representatives argued that there was no need to provide protective facilities, that protecting Bedouin villages was a low priority, and that under the Civil Defence Law, the villagers themselves had primary responsibility for providing protection.⁴³ The state response ignored the facts that the makeshift structures in

⁴² ACRI, "Provide Protection from Rocket Attacks for Bedouin Villages in the Negev", 17 July 2014, <http://www.acri.org.il/en/2014/07/17/rockets-bedouin/> (accessed 13 March 2015). The petition was filed on behalf of several residents of the villages and organizations including the Regional Council for the Unrecognized Villages, Physicians for Human Rights – Israel, the Negev Coexistence Forum, and Bimkom.

⁴³ ACRI, "State: Providing Protection for Bedouin Villages in the Negev is Not a Priority", 17 July 2014, <http://www.acri.org.il/en/2014/07/17/bedouin-protection-priority/> (accessed 13 March 2015); Revital Hovel, "State to court: Negev Bedouin must fend for themselves under Gaza rockets", *Haaretz*, 18 July

the communities provide no protection and that any construction in these villages would be subject to a demolition order. State officials told the court that the best protective measure the residents could take was to lie on the ground.

Following the rocket attack which killed Ouda al-Waj and injured several members of his family in Qasr al-Sir on 19 July, ACRI submitted an urgent request to the court for a judgment on the petition, noting that “multiple rockets have fallen in this area in recent days” and that temporary measures such as mobile shelters could help avoid further casualties.⁴⁴

In a partial judgment, rendered on 20 July 2014, the court rejected the urgent request, deciding there was no reason to intervene “in operative decisions... that were made in the midst of fighting” and accepting the state’s argument that decisions on shelters were “based solely on objective considerations”.⁴⁵ While refraining from criticizing the lack of protection and the failure to provide temporary shelters in the Bedouin communities, the justices requested that the state review issues of infrastructure and protection for the future and provide the court with a more detailed response within 30 days. In a meeting on 17 August with heads of the regional councils that include the recognized Bedouin villages, Minister of Social Affairs Meir Cohen acknowledged that the state should provide proper protection to the Bedouin communities.⁴⁶

The justices have repeatedly extended the deadline for the state to submit its response, most recently to 9 March 2015.⁴⁷ As this report was being finalized, the State Attorney’s Office submitted a response on behalf of the Home Front Command and the Minister of Defence, and the justices had given the petitioners until 12 April 2015 to comment on the response.⁴⁸ In the meantime, as lawyers from ACRI stressed to Amnesty International, on the ground, nothing has changed.

2014, <http://www.haaretz.com/news/diplomacy-defense/.premium-1.605803> (accessed 13 March 2015).

⁴⁴ ACRI, “Urgent Request for the Provision of a Judgment on Behalf of the Petitioners”, 19 July 2014 <http://www.acri.org.il/en/wp-content/uploads/2014/07/Bedouin-Protective-Facilities-Urgent-Request.pdf> (accessed 13 March 2015).

⁴⁵ *H CJ 5019/14, Labad Abu Afash et al v. Home Front Command*, partial judgment, 20 July 2014, <http://elyon2.court.gov.il/files/14/190/050/W02/14050190.W02.htm> (in Hebrew, accessed 13 March 2015); ACRI, *High Court of Justice Refuses to Intervene in Lack of Protection for Bedouin Villages*, 20 July 2014 (<http://www.acri.org.il/en/2014/07/20/bedouin-protection-denied/>); Revital Hovel, “High Court rejects petition seeking rocket shelters for Bedouin villages now”, *Haaretz*, 21 July 2014, <http://www.haaretz.com/news/diplomacy-defense/.premium-1.606221> (accessed 13 March 2015).

⁴⁶ Shirly Seidler, “Welfare minister seeking solution for rocket-exposed Bedouin towns”, *Haaretz*, 19 August 2014, <http://www.haaretz.com/news/national/.premium-1.611232> (accessed 13 March 2015).

⁴⁷ *H CJ 5019/14, Labad Abu Afash et al v. Home Front Command*, decision, 5 March 2015, <http://elyon1.court.gov.il/files/14/190/050/w12/14050190.w12.htm> (in Hebrew, accessed 13 March 2015).

⁴⁸ *H CJ 5019/14, Labad Abu Afash et al v. Home Front Command*, decision, 16 March 2015, <http://elyon1.court.gov.il/files/14/190/050/w13/14050190.w13.htm> (in Hebrew, accessed 16 March 2015).

In September 2011, the Israeli government approved a plan for the regularization of Bedouin settlements in southern Israel that was prepared by a committee headed by former deputy chairman of the National Security Council Ehud Praver. If implemented, the plan would forcibly evict some 30,000 Bedouin from their homes and villages, and result in the demolition of entire villages and communities. Amnesty International urged lawmakers not to pass the draft law based on the plan, which was considered by the Knesset (Israel's parliament) in 2012 and 2013.⁴⁹ In December 2013, Minister Benny Begin, who was in charge of overseeing discussions with the Bedouin, announced that the government would not bring the bill to a vote, after a deeply flawed process that did not meet the requirements for conducting genuine consultations with the affected communities.⁵⁰ However, demolitions of homes and other structures built without permits in the unrecognized villages and other Bedouin communities in the Negev/Naqab, considered "illegal" construction by the Israeli authorities, have continued apace.⁵¹ Amnesty International has repeatedly urged the Israeli authorities to halt demolitions in these communities, officially recognize the Bedouin villages, grant security of tenure to their residents, and provide them with adequate services.⁵²

Atiyah al-Assam and Fadi Masamra from the Regional Council for Unrecognized Villages (RCUV) told Amnesty International that there was no co-ordination between the Israeli authorities and the Bedouin communities during the July/August 2014 hostilities, or during previous military operations in the Gaza Strip, and no services were provided to residents:⁵³

The government sees the Arabs and the area in which the Arabs are living as 'open space'. There was a lack of shelters. We don't even hear the alarms... There were no instructions on how to react during the war in case of attacks or alarms. The instructional pamphlets were given to the people after the issue was raised in the media. There were a lot of requests during the war for protection, but these went unanswered by the authorities.

⁴⁹ Amnesty International, *Israel: Knesset urged not to pass law that would forcibly evict tens of thousands of Negev/Naqab Bedouin* (Index: MDE 15/008/2013), 20 April 2013 (<https://www.amnesty.org/en/documents/MDE15/008/2013/en/>).

⁵⁰ Amnesty International, *Israel: Flawed consultations place Bedouin at risk of forced eviction* (MDE 15/006/2014), 24 March 2014 (<https://www.amnesty.org/en/documents/MDE15/006/2014/en/>).

⁵¹ See, for example, Negev Coexistence Forum for Civil Equality, *The House Demolition Policy in the Negev-Naqab*, 10 December 2014, http://www.dukium.org/wp-content/uploads/2014/12/HDR_2014_English_web.pdf (accessed 13 March 2015), pp. 12-13, which present data from the Ministry of Interior on demolitions in the Negev between July 2013 and June 2014. The majority of the 859 structures demolished during this period were in fact demolished by the owners themselves, after receiving demolition orders from the state and being told that they would be charged costs incurred by the authorities in carrying out the demolition.

⁵² In addition to the Amnesty International documents cited above, see: *Israel: Demolitions of Bedouin homes in Negev desert must end immediately*, 18 July 2013; *Israel must not use violence to quash Land Day demonstrations on Sunday*, 29 March 2014.

⁵³ They were interviewed on 17 December 2014.

Even if you wanted to take control of your own life and build your own bomb shelter, the authorities would demolish it as an illegal structure. The people were terrified during the war. At the end of the war, cars with [mobile] sirens came to the recognized villages. The authorities warned people that they put their own lives at risk by being in unrecognized villages. There were SMS alerts in the cities around us, but we didn't get any alerts about the rockets in our city. Even in Rahat [a government-planned township], which has a population of more than 65,000, there are no public bomb shelters.

Most ambulance drivers are unable to reach unrecognized villages, which do not appear on official maps or GPS-based applications; there is only one Bedouin ambulance driver serving Bedouin communities outside the recognized townships.⁵⁴ Atiyah al-Assam and Fadi Masamra told Amnesty International:

When someone is injured, the ambulance cannot reach the village. One of their relatives has to take them to the nearest [recognized] village [or township] or a [main] intersection. This problem started before the war. In many cases, people preferred to take their relatives to the hospitals in their own cars because they were afraid that they would have to pay money that they do not have for an ambulance. The number of casualties in the Bedouin community is disproportionate to the rest of society.

Another rocket attack that hit Awajan, an unrecognized village with about 3,600 residents approximately 50km from Qasr al-Sir,⁵⁵ on 14 July 2014 and resulted in injuries to local residents, further illustrates the impact of the lack of protection and services in Bedouin communities.

At approximately 5pm on 14 July, a rocket launched by a Palestinian armed group in the Gaza Strip hit about 50m away from the house of the al-Wakili family in the village of Awajan, injuring Atiyah al-Wakili's two daughters. Maram, 11, sustained severe injuries from shrapnel that lodged in her abdomen, causing internal organ damage to her stomach, kidney and pancreas. Atheer, 13, sustained shrapnel injuries in her left knee and had to undergo surgery and several weeks of physiotherapy.⁵⁶

Amnesty International was unable to determine the type of rocket fired or find any claims of responsibility by a specific armed group. Unguided rockets are inherently indiscriminate and their use is prohibited under international humanitarian law. Using prohibited weapons is a

⁵⁴ Eetta Prince-Gibson, "Meet the human GPS who's saving Bedouin lives", *Haaretz*, 15 December 2014, <http://www.haaretz.com/news/features/.premium-1.631738> (accessed 13 March 2015).

⁵⁵ For information on Awajan, see: Negev Coexistence Forum for Civil Equality, "The Arab Bedouin Villages in the Negev-Naqab: Awajan", interactive map, <http://www.dukium.org/village/%D7%A2%D7%95%D7%92%D7%90%D7%9F/> (accessed 13 March 2015).

⁵⁶ Amnesty International's researchers obtained copies of medical reports issued by the University Medical Centre at Soroka Hospital in Be'er Sheva; interview with Atiyah al-Wakili, Awajan, 17 December 2014.

war crime.

Atiyah al-Wakili, who was inside the house and heard the attack, recounted:⁵⁷

The rocket was 150cm long. I think there was an explosive device inside of it because I heard a boom when it landed. I was sleeping inside at the time. When I awoke, I found my daughter lying in the doorway bleeding. When I put her in the car to take her to Soroka Hospital, my other daughter was traumatized. I realized she was also injured and took her to the hospital with us.

I didn't think about calling an ambulance because they will not enter the village. I decided to take her to the hospital in my own car. On the way to the hospital, both girls lost consciousness.

Atiyah al-Wakili told Amnesty International's researchers that the village, which is not connected to the electric grid because of its unrecognized status, had no access to any civil defence facilities. He said:

During the war, we sometimes heard the alarm, sometimes not. When this rocket hit us, we didn't hear anything. If you are lucky and you do hear the alarm, there is nothing you can do. Rockets have hit the hills near the house a couple of times. After my daughters were injured, the authorities told me to lie down and put my hand over my face... I have the feeling that both my daughters have changed. As parents, we try to do everything to help our children, but we have limited means.

Maram underwent a few sessions of treatment for her trauma, but the family decided to discontinue them partly because of the difficulty communicating with a Hebrew-speaking doctor through an interpreter. His other children saw a psychologist following the incident, but only once. "Now there is a volunteer from England who comes every Saturday to work with Atheer; I think she needs additional treatment," Atiyah al-Wakili said. "I used a tractor to eliminate every trace of the rocket attack to keep it away from my family."

Atiyah al-Wakili said that the family received compensation from the Israeli government for the damage to property and that his daughters' medical treatment was paid for by national insurance.

Chaim Rafalowski, Disaster Management Coordinator at Magen David Adom (MDA), acknowledged to Amnesty International that medical teams did not reach the Bedouin communities in southern Israel on time. He said that during the war MDA opened two field offices "to get a head start nearby the [Bedouin] communities in the area of Dimona: in Segev Shalom and Tel Sheva. We also added five ambulances to work in the area," he said.⁵⁸

He said that in 2015, MDA is co-operating with the International Committee of the Red Cross (ICRC) to train co-ordinating officers in the communities who will know how to provide an

⁵⁷ Amnesty International interview, Atiyah al-Wakili, 17 December 2014.

⁵⁸ Interviewed on 13 January 2015.

initial response until the ambulances arrive. “We hope that with their help we can raise the population’s awareness about issues of security and safety,” Chaim Rafalowski told Amnesty International.

DEATH OF NARAKORN KITTIYANGKUL, NETIV HAASARA, 23 JULY

On 23 July 2014, a mortar launched by a Palestinian armed group in the Gaza Strip hit agricultural land belonging to the Keidar tomato farm, in the moshav (farming community) of Netiv HaAsara in the Hof Ashkelon Regional Council. The community is just north of the Gaza Strip, near the Erez Crossing. Narakorn Kittiyangkul, 36, from Pua district in Thailand’s northern province of Nan, who was working on the farm together with at least four others, was killed after sustaining fatal shrapnel injuries in his neck. Narakorn Kittiyangkul had left Thailand on 23 June 2014 to come and work in Israel and was assigned by a labour supply agency authorized by the Israeli government to a tomato farm in southern Israel. The mortar hit one of the greenhouses, severely damaging it and adjacent greenhouses.

While there is an IDF base at the southern edge of Netiv HaAsara, which would have been a legitimate military objective, imprecise munitions such as mortars should not have been used given the proximity to civilians and civilian objects, as they violate the prohibition of indiscriminate attacks. When indiscriminate attacks kill or injure civilians, they constitute war crimes.

A Thai worker who knew Narakorn Kittiyangkul and had been working for over a year for a different employer in Netiv HaAsara told Amnesty International’s researchers that, when they were working in the field with no access to shelters, his employer would tell him to “run and lie on the ground” if there was an attack.⁵⁹ He told Amnesty International’s researchers:

Sometimes when there is a mortar attack, the employer makes us work. He calls the work manager [who is also Thai] and he urges us: ‘Yallah, to work’. Most of the workers where I worked stayed in the shelter [when there were mortars]. About three to four of us went to work because they had good relations with the employer, and didn’t want to ruin it... Those who made a row and opposed the employer are being transferred away. There was a case in which the employer kicked the workers out.

In interviews conducted previously by the Worker’s Hotline with other Thai workers in Netiv HaAsara, the men reported that most shelters were too far away, and that workers often dropped to the ground and covered their heads when they heard sirens instead of trying to run to them. Workers said that they knew that employers would not pay them if they did not go out to work; some would take the risk and try to stay alert when the sirens sounded.

Chaim Rafalowski, Disaster Management Coordinator at Magen David Adom (MDA), told Amnesty International that the Israeli army’s medical corps arrived at the scene first as they were closest to the farm, which runs alongside the Israeli perimeter fence surrounding the

⁵⁹ Interview conducted by phone on 28 January 2015 with the assistance of the Israeli human rights organization, Worker’s Hotline (Kav LaOved), and their Thai interpreter. The Thai worker requested to remain anonymous.

Gaza Strip on its northern end, close to the Erez Crossing. They transported Narakorn Kittiyangkul to Barzilai Medical Center in Ashkelon. “The response was fast in terms of providing medical treatment; the team arrived on the scene very quickly,” he said.⁶⁰ Narakorn Kittiyangkul succumbed to his wounds and died within an hour of the attack, en route to the hospital.⁶¹

Narakorn was actually the second Thai worker to be killed while working in Netiv HaAsara in recent years; a Thai worker was killed when a Qassam rocket fired from Gaza struck a greenhouse in the same community on 18 March 2010.⁶²

A day following Narakorn Kittiyangkul’s death, on 24 July 2014, the Thai government urged Israel to relocate the 4,000 Thai nationals employed in the agricultural sector in southern Israel near the Gaza perimeter fence.⁶³ Thailand’s Foreign Ministry Spokesman Sek Wannamethee was quoted by the news agency Agence France Presse (AFP) telling reporters in Bangkok: “The Thai Embassy has contacted the Israeli Foreign Ministry and employers to ask them to relocate 4,000 Thai workers in agriculture estates near the Gaza Strip immediately and unconditionally to safe areas 10 to 20 kilometers away.”⁶⁴

Media quoted Yair Farjoun, head of the Hof Ashkelon Regional Council, as saying in response to the attack: “Abandoning the agricultural areas now will lead to huge economic damage and to a shortage of produce.”⁶⁵

It is difficult for foreign workers based in dangerous areas to leave their employers for another job as their stay and employment in Israel are regulated and administered by agencies that deal with their employer. The day following the attack, on 24 July 2014, the Population and Immigration Authority in the Israeli Ministry of Interior issued a letter instructing labour agencies that contract migrant workers to Israeli employers in the agricultural sector to allow workers who requested to be transferred to work in northern Israel “to move temporarily and until the end of the war.” The Ministry noted that it had confirmed that farmers in the north and in the eastern Arava region “were willing to receive foreign workers to work on their farms immediately.”⁶⁶ The letter, signed by Yoel Lipowitski, Head of the Department for Employers

⁶⁰ Interviewed on 13 January 2015.

⁶¹ Israel Ministry of Foreign Affairs, “Narakorn Kittiyangkul”, 23 July 2014, <http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Victims/Pages/Narakorn-Kittiyangkul.aspx> (accessed 13 March 2015).

⁶² Shmulik Hadad, “Man killed in Qassam attack”, *YNet*, 18 March 2010, <http://www.ynetnews.com/articles/0,7340,L-3864628,00.html> (accessed 13 March 2015).

⁶³ *Jerusalem Post*, “Thailand demands Israel relocate Thai workers from near Gaza”, 24 July 2014, <http://www.jpost.com/Operation-Protective-Edge/Thailand-demands-Israel-relocate-Thai-workers-from-near-Gaza-368717> (accessed 13 March 2015).

⁶⁴ *Jerusalem Post*, “Thailand demands Israel relocate Thai workers from near Gaza”, 24 July 2014, <http://www.jpost.com/Operation-Protective-Edge/Thailand-demands-Israel-relocate-Thai-workers-from-near-Gaza-368717> (accessed 13 March 2015).

⁶⁵ *Jerusalem Post*, “Thailand demands Israel relocate Thai workers from near Gaza”, 24 July 2014, <http://www.jpost.com/Operation-Protective-Edge/Thailand-demands-Israel-relocate-Thai-workers-from-near-Gaza-368717> (accessed 13 March 2015).

⁶⁶ Population and Immigration Authority, Ministry of Interior, “Re: Temporary Orders – Operation

and Foreign Workers, directed the agencies to distribute instructions in this regard, as well as details of shelter facilities, to employers and workers.⁶⁷ Amnesty International has not been able to look into what arrangements were made in practice for those who made such transfer requests.

DEATH OF DANIEL TREGERMAN, KIBBUTZ NAHAL OZ, 22 AUGUST

On 22 August 2014, at approximately 6pm, a mortar launched by Palestinian armed groups in the Gaza Strip hit the Tregerman family car that was parked in front of their home in the north-western part of Kibbutz Nahal Oz, while the family was indoors. The kibbutz is located near the perimeter fence with the Gaza Strip, east of Gaza City and Shuja'iyyeh. Daniel Tregerman, 4, who was inside the house, sustained fatal shrapnel injuries in his head and died on the spot.

In a statement issued about one hour later on 22 August, Hamas' military wing, the al-Qassam Brigades, claimed responsibility for firing two 120mm mortars and three 81mm mortars at Kibbutz Nahal Oz at 6.05pm that day.⁶⁸ The claim of responsibility, which did not mention any military objective targeted in the attack, indicates that this was a direct attack on civilians or civilian objects, and thus a war crime. Even if the attack had targeted IDF troops or equipment located in the vicinity of the kibbutz during Operation Protective Edge, mortars are an imprecise weapon which should never be used to target military objectives located amidst civilians, and the attack would still have been indiscriminate, and thus a war crime.

Gila Tregerman, Daniel's mother, who works as a spokesperson for Merhavim Regional Council, told Amnesty International that the family had already relocated twice during the hostilities.⁶⁹ "When the war started, we went to Ashalim [south-east of Nahal Oz] for one week," she said. "Then we went to Dorot [east of Nahal Oz] for a week and a half." She recounted how, when an announcement was made two days before the attack, 20 August 2014, that they could return to their homes, she at first refused to do so. Gila Tregerman said that the accommodation in the other towns that hosted her and other families was limited; in some cases, two families with six children would sleep in one caravan.

Gila Tregerman told Amnesty International that the family had returned to Nahal Oz on 21 August. She said:

We heard two sirens, but the feeling was that it was the end of the war. We stayed

Protective Edge", letter from Yoel Lipowitski, Head of the Department for Employers and Foreign Workers, to private agencies with permits to allocate foreign workers, 24 July 2014, <http://www.piba.gov.il/FormsAndRegulations/Notice/Documents/InstrForeignWorkersAgr.pdf> (in Hebrew, accessed 12 March 2015) ("Temporary Orders – Operation Protective Edge", Letter from Yoel Lipowitski).

⁶⁷ "Temporary Orders – Operation Protective Edge", Letter from Yoel Lipowitski.

⁶⁸ Al-Qassam Brigades, Information Office, "Al-Qassam Brigades bomb enemy positions and settlements with 12 mortar shells", 22 August 2014, <http://www.alqassam.ps/arabic/#!/5170/البيانات/> (in Arabic, accessed 12 March 2015).

⁶⁹ Interviewed on 22 December 2014.

with a bag packed in case something happened. At 5.30pm on 22 August, they announced that one mortar had hit the [kibbutz] pantry and another had hit a friend's house. Then we decided to leave and not come back.

Gila Tregerman told the Israeli press:

The suitcases were already packed; a minute before the explosion I went out to take [her youngest son] Uri's harness from the clothesline and met the neighbour. I asked him if they were leaving and told him we were setting off now. I went inside and there was a 'Color Red' alert.⁷⁰

At approximately 6pm, the five members of the Tregerman family were at home when the sirens went off, Gila Tregerman told Amnesty International. She said:

Then it happened. A mortar hit our car and the shrapnel entered our house. My husband and son were in the living room, and I was yelling for them to come into the shelter. Shrapnel [from the mortar] entered Daniel's head, killing him immediately. Doron, my husband, later realized that he also sustained shrapnel injuries in the legs.

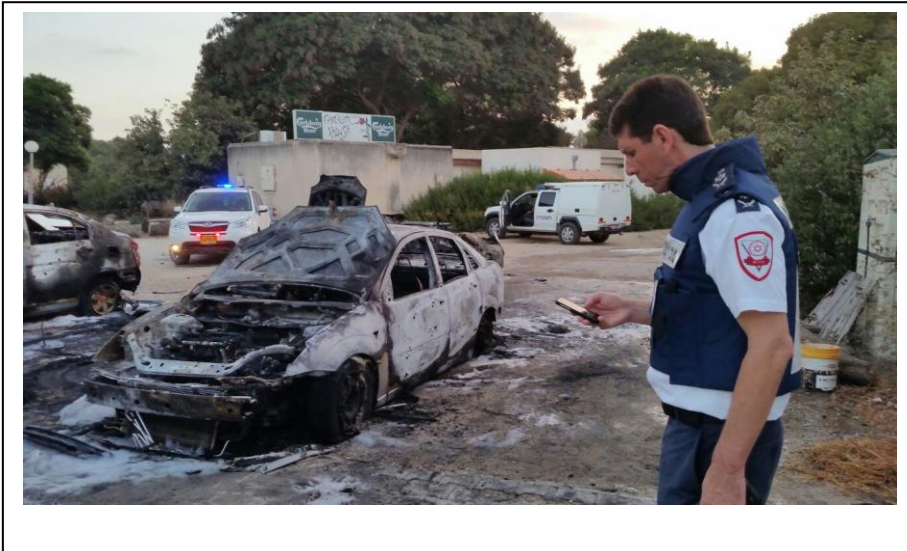
In a letter to UN Secretary-General Ban Ki-moon, published in the Israeli press, Gila Tregerman wrote:

All the precautions we had taken failed. Daniel, 4.5 years old, was killed in our house, while playing with Yoval in a tent built indoors and not outside, because it's dangerous. He was killed from a mortar shell that was shot by terrorists from Gaza, he died in our hands. Daniel died in front of his little sister and his best friend Yoval, 3.5 years old; he died in front of Uri, only four months old and right before our eyes, his mother and father...

Daniel's father, Doron, covered him with a blanket while crying bitterly and we escaped from home with two small children, leaving our precious son behind, in order to protect them from bombings that continued to explode around the house. Yoval, Daniel's sister, saw the terrifying sight and understood that something terrible happened. It is unbearable to watch that little child staring at the wall, in overwhelming silence with teardrops from her eyes.⁷¹

⁷⁰ *The Times of Israel*, "Daniel Tragerman's mother: 'We wanted to watch him grow up'", 23 August 2014, <http://www.timesofisrael.com/4-year-old-victims-mother-we-were-about-to-leave-kibbutz/#ixzz3Q1NJszkC> (accessed 15 March 2015); Israel Ministry of Foreign Affairs, "Daniel Tregerman, 4, killed by mortar fire", 22 August 2014, <http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Victims/Pages/Daniel-Tragerman.aspx> (accessed 15 March 2015).

⁷¹ Israel News Agency, "Letter: Parents of Israeli Child Daniel Tregerman to UN Secretary General Ban Ki-Moon", 4 September 2014, <http://israelnewsagency.com/letter-parents-of-israeli-child-daniel-tregerman-to-un-secretary-general-ban-ki-moon/> (accessed 15 March 2015); JTA, "Daniel Tragerman's parents urge UN chief to denounce Hamas", *Haaretz*, 4 September 2014,



Israeli rescue workers at the scene of a rocket attack from Gaza which hit a kibbutz near the border with Gaza on 22 August 2014. © Magen David Adom Spokesperson

Gila Tregerman told Amnesty International that “three seconds passed from the moment the sirens sounded until the mortar hit the ground; we didn’t have enough time to get into the protected room.” She told the Israeli press that her son, Daniel, “always rushed to the protected room. The moment the alarm sounded he knew what to do and where to go. When everyone reached the protected room Daniel would say, ‘Now we’re all safe.’”⁷²

The Tregerman family moved from Kibbutz Nahal Oz to the community of Sde Tsvi, east of Netivot. “The Palestinians are firing mortars on a regular basis,” she said. “Mortars usually do not have an advance warning. At least 10 mortars had been fired by the end of Protective Edge.” She also told Amnesty International’s researchers that about four years ago a rocket launched by Palestinian armed groups in the Gaza Strip landed on the home of her parents-in-law, causing extensive damage.

DEATHS OF ZE’EV ETZION & SHAHAR MELAMED, KIBBUTZ NIRIM, 26 AUGUST

On 26 August 2014, at approximately 6pm, about an hour before the ceasefire announced for 7pm that day, a mortar launched by a Palestinian armed group in the Gaza Strip struck the ground a few metres from the generator facility in the centre of Kibbutz Nirim, located about 2km from the eastern border of the Gaza Strip. The attack killed Ze’ev Etzion, 55, a security co-ordinator on the kibbutz,⁷³ and Shahar Melamed, 43, Ze’ev’s deputy, who was

<http://www.haaretz.com/news/diplomacy-defense/1.614213> (accessed 15 March 2015).

⁷² *The Times of Israel*, “Daniel Tragerman’s mother: ‘We wanted to watch him grow up’”, 23 August 2014, <http://www.timesofisrael.com/4-year-old-victims-mother-we-were-about-to-leave-kibbutz/#ixzz3Q1Nu0UI9> (accessed 15 March 2015).

⁷³ Ze’ev Etzion was employed as a military security co-ordinator for Kibbutz Nirim. The IDF funds security co-ordinator positions in Israeli communities near the Gaza border, but these are civilians who

fatally injured and died several hours later.

While IDF troops and equipment were located near the kibbutz, imprecise munitions such as mortars should not have been used given their proximity to civilians and civilian objects, as they violate the prohibition of indiscriminate attacks. When indiscriminate attacks kill or injure civilians, they constitute war crimes.

At the time of the attack, Ze'ev Etzion and Shahar Melamed were among a group of about six others, including two electricians, who were contracted by the Israeli Electric Company to fix a key electric tower that had been hit by a mortar fired by Palestinian armed groups from the Gaza Strip earlier that day. A round of mortars from the Gaza Strip hit different locations in and around Kibbutz Nirim. At approximately 6pm, after the group had run back and forth between the electric tower and a nearby electric generator room, a distance of about 25m, what residents said was a 107mm mortar landed about 15m from the generator room in the centre of Kibbutz Nirim and about 20m away from the electric tower where the work was being done.



Shrapnel from the scene of the attack on Kibbutz Nirim on 26 August 2014. © Amnesty International

Ze'ev Etzion appears to have been killed on the spot. Shahar Melamed and Gadi Yarkoni sustained severe injuries and were promptly evacuated to hospital by helicopter. Gadi, who was hit in the legs, was standing closest to where the mortar landed. He lost both of his legs and remained at Tel HaShomer hospital at least until 16 December 2014. Gabi Shrikher and two other people sustained shrapnel injuries.

Nava Etzion,⁷⁴ Ze'ev Etzion's wife, showed Amnesty International's researchers

shrapnel remnants she said were brought to her from the scene of the attack, but Amnesty International's military experts were unable to identify definitively the type of munition due to the limited scope of the remnants.

Ayelet Ram, a volunteer ambulance co-ordinator for Kibbutz Nirim for MDA, took Amnesty International's researchers to the site of the attack, while she and Gabi Shrikher described the location of the injured and showed them the earth crater from the mortar as well as the burn marks that remained in surrounding trees and the shrapnel punctures in the electricity tower, located at a distance of about 10m from the earth crater. She also showed Amnesty

liaise with the military on security for their communities.

⁷⁴ Interviewed in Kibbutz Nirim on 22 December 2014.

International's researchers several mobile phone videos taken by another resident immediately after the attack, which corroborated the eyewitness accounts of the injuries and the location of the hit.

Gabi Shrikher, a resident of Kibbutz Nirim since 1986, who works for the potato production plant called Mifal Yeshuvei Hevel Maon, went over to see the group who was fixing the electric tower shortly before the attack. He told Amnesty International's researchers:⁷⁵

On that day [26 August], I came home from work at approximately 5.20pm. There was no electricity at the kibbutz since that morning. I live about 70m from the site of the attack, and went over right before a 'colour red' alert. Mati [the kibbutz electrician] was there, but Shahar wasn't yet. Ze'ev told Sivan to go make some coffee. When the 'colour red' alert sounded, we all ran inside the generator facility [next to the electric tower]. The army told Ze'ev that the rocket landed in Ein HaShlosha.

Then we went out, and a very short time passed before another 'colour red' alert went off, and we all ran to the shelters. As I got into the generator facility, the mortar hit the ground. I don't remember the explosion. Ze'ev, Shahar, and Gadi were behind us. While I was running to the shelter, I felt some shrapnel hit my back.

I was bleeding from both my legs. In my left shin, there was a large wound about 2cm long and notably deep. It was a 7mm piece of shrapnel. In the hospital, they decided to leave it to come out in the shower.

Gabi Shrikher recounted that, when they came out of the generator room, he saw "Ze'ev lying on his back like an angel". He said, "He was too quiet and calm. I knew that Ze'ev was no longer with us. The closest to me was Gadi, who was lying on the ground with only one leg intact." He recalled seeing soldiers and other people come to the scene: "The first thing I did was call my wife and tell her that Ze'ev was killed, and that Gadi had lost both legs. I saw one of the electricity company workers holding his elbow."

He also recalled seeing that a burner that was left behind by one of the electricity company workers, who was unable to put it out when running inside the generator room, was still on. He added, "There was a [petrol] leak from the generator tank and the grass was on fire from the burner that was left behind by one of the electric workers, so I told them to put it out."

Gabi Shrikher told Amnesty International that when the ambulance arrived, he "decided to go home so as not to get in the way of the personnel's work." Following another 'colour red' alert, Gabi Shrikher said, "I was told to go back to the site of the attack, so that an ambulance could take me to Soroka [hospital]. In the emergency room when I [thought I] saw Dadi walk by with Shahar, I later realized it was Shahar's brother, Lior. I later found out that Shahar, who was transported to the hospital by helicopter, died on the operating table in the emergency room."

⁷⁵ Interviewed in Kibbutz Nirim on 22 December 2014.

Ayelet Ram, a volunteer ambulance co-ordinator for Nirim for MDA, told Amnesty International's researchers that on the day of the attack, 26 August, there were 24 "colour red" alerts. She said, "In the morning there was a round of mortars. Between 2pm and the late afternoon there was a lull, and the fire was renewed in the late afternoon." Ayelet Ram drove the first ambulance to arrive at the site of the attack only several minutes following the explosion.⁷⁶ "Shortly after another 'colour red' alert, a man came running over crying for help. I got into the ambulance and drove over to the site about 200-300m away. I was there in minutes," she said. When she first arrived on the scene of the attack, she recounted seeing Ze'ev lying on his back next to a truck with an aerial platform that belonged to the electric company.

There were two people beside him [Ze'ev]. My first impression was that he was in a critical condition. There were soldiers there. There was no medical team at the time, but when I got out of the ambulance, I asked one of the soldiers to call them.

Gadi was lying on his back unconscious. Shahar was partly conscious and his wife Anat was next to him, telling him: 'Shahar, stay with me, don't leave, talk to me.' Gadi had a head injury on the right side. He also had two tourniquets on his legs. Shahar had one. Gabi was behind me; he was bleeding in his leg. Mati [the kibbutz electrician] was running around in a kind of trance. Everything was in flashes.

Ayelet Ram co-ordinated with the medical helicopter and drove the ambulance carrying Gadi to the helicopter landing area in an open field on the south-western edge of Nirim. She said:

During the drive, Gadi was complaining about acute pains. We couldn't give him morphine because of his heart problems. When the helicopter landed the paramedic from the helicopter opened a vein in Gadi and applied dried plasma on him.

Nava Etzion, Ze'ev's wife, a kindergarten teacher, told Amnesty International that she and her children left the kibbutz on 7 July along with most of its residents. Some elderly persons, including her in-laws stayed, and her sister-in-law came to stay with them. Ze'ev Etzion had to stay behind because of his work as a security co-ordinator for the kibbutz. "He came over a couple of times during the war to Mishmar HaEmek. He was going around a lot because of the hits on the electricity system," said Nava Etzion.

During the hostilities, Nava Etzion would go back and forth between Mishmar HaEmek, a town north of Nirim that was hosting displaced families, and her home in Nirim. She recounted:

At the very beginning of the war, on 7 July, there was a joint decision of the kibbutz to evacuate to Meshmar HaEmek. This was also what happened during Cast Lead

⁷⁶ Chaim Raflowski, Disaster Management Coordinator at MDA, told Amnesty International that the kibbutzim along the Israeli side of the perimeter fence are very organized. He said, "They have their own security co-ordinators and MDA volunteers. In the attack on Nirim, the woman who was a MDA volunteer and drove the ambulance to the scene of the attack informed us when she was on the way and requested additional assistance."

and Pillar of Defense. During those two months no one was working. Many people didn't come back at all, not even during the ceasefires.

It was impossible to conduct a normal life. There was no family life. Our protected room is very small. We would have to go in and out and didn't know when it was safe to come out – there's no alarm, just a general 'colour red' alert... There was a feeling of terror, killings and complete disruption of daily life. The house, which was the safest place, became the most dangerous place. Rockets landed without any warning or siren in the kibbutz. There is no Iron Dome in our area because the range is too short.

IMPACT OF CONDUCT OF PALESTINIAN ARMED GROUPS ON CIVILIANS IN GAZA

International humanitarian law requires all parties to a conflict to take “all feasible precautions” to avoid and minimize the loss of civilian life, injury to civilians, and damage to civilian objects on all sides. Thus, in addition to their obligations not to launch deliberate attacks on Israeli civilians or indiscriminate attacks likely to kill or injure civilians in Israel, Palestinian armed groups were also obliged to take all feasible precautions to protect Palestinian civilians in Gaza against the effects of attacks.

The Israeli authorities’ denial of access to the Gaza Strip for international human rights researchers has made documenting and verifying specific violations by Palestinian armed groups during the conflict more difficult. Nevertheless, there is substantial evidence that some of the military operations and conduct of Palestinian armed groups during the July/August 2014 conflict endangered civilians in the Gaza Strip and violated their obligation to take all feasible precautions to avoid and minimize harm to civilians within the Gaza Strip. In one case, the available evidence indicates that 13 Palestinian civilians were killed in the al-Shati refugee camp on 28 July as a result of a rocket fired from within the Gaza Strip. This devastating incident graphically illustrates the indiscriminate nature of the rockets fired by Palestinian armed groups. On some occasions, Palestinian armed groups also violated objects or facilities that are specifically protected under international humanitarian law, including UN buildings, hospitals, and religious or cultural sites.

The Israeli authorities have claimed that Hamas and Palestinian armed groups had “ultimate responsibility” for the heavy civilian casualties and damage to civilian infrastructure in the Gaza Strip because of their unlawful conduct during the hostilities.⁷⁷ However, none of the violations by Palestinian armed groups analysed in this chapter absolved Israeli forces of their obligations under international humanitarian law. Israeli forces were obliged to attack only military objectives and distinguish at all times between civilians and combatants; to ensure that the anticipated military advantage of each attack would be proportionate to the expected casualties to civilians and civilian property caused; and to take all feasible precautions to minimize the risk of harm to civilians and civilian property in Gaza. The violations of Palestinian armed groups discussed here do not in any way justify the Israeli violations during the conflict that Amnesty International has documented, including attacks on family homes across the Gaza Strip when the families were inside, on landmark buildings, and on medics

⁷⁷ IDF, *New Declassified Report Exposes Hamas Human Shield Policy*, 20 August 2015, slide 44, <http://www.idfblog.com/blog/2014/08/20/new-declassified-report-exposes-hamas-human-shield-policy/> (accessed 14 March 2015) (IDF, *Declassified Report Exposes Hamas Human Shield Policy*).

and medical facilities, among others.⁷⁸

CONDUCT ENDANGERING CIVILIANS IN GAZA

This section presents examples of attacks by Palestinian armed groups launched from inside civilian facilities, followed by attacks launched from the vicinity of civilian buildings or from residential areas. Evidence that Palestinian armed groups used civilian buildings and facilities for other military purposes, such as storing munitions, is presented in the third sub-section. The last sub-section assesses the allegations about the use of “human shields” by Palestinian armed groups during the hostilities.

LAUNCHING ATTACKS FROM CIVILIAN BUILDINGS AND COMPOUNDS

There are credible reports that, in certain cases, Palestinian armed groups launched rockets or mortars from within civilian facilities or compounds, including schools, at least one hospital and a Greek Orthodox church in Gaza City. In at least two cases, accounts indicate that attacks were launched in spite of the fact that displaced Gazan civilians were sheltering in the compounds or in neighbouring buildings. Such violations by the Palestinian side would not relieve Israel of its obligation to take necessary precautions to minimize harm to civilians and damage to civilian objects in its response. Civilians present do not lose their immunity from direct attack and their presence in large numbers and the special status of some of the buildings under international humanitarian law would need to be taken into account.

The al-Shifa hospital in Gaza City is the largest and most important specialist hospital in the Gaza Strip. During the hostilities, hundreds of civilians displaced by the fighting took refuge within the hospital compound.⁷⁹ A correspondent for the Finnish newspaper *Helsingin Sanomat* (HS) reporting from the al-Shifa hospital noted that a rocket had been launched from the parking lot behind the hospital in a report titled “HS spent the night at a hospital in Gaza” broadcast on 1 August 2014.⁸⁰ The report was interpreted as referring to a launch on 1 August,⁸¹ but it is unclear exactly when the footage was shot, which night the

⁷⁸ Amnesty International, *Israel and the Occupied Palestinian Territories: Evidence of medical workers and facilities being targeted by Israeli forces in Gaza* (Index: MDE 15/023/2014), 7 August 2014 (<https://www.amnesty.org/en/documents/mde15/023/2014/en/>); Amnesty International, *Families under the rubble: Israeli attacks on inhabited homes* (Index: MDE 15/032/2014), 5 November 2014 (<https://www.amnesty.org/en/documents/mde15/032/2014/en/>); Amnesty International, *‘Nothing is immune’: Israel’s destruction of landmark buildings in Gaza* (Index: MDE 15/029/2014), 9 December 2014 (<https://www.amnesty.org/en/documents/mde15/029/2014/>).

⁷⁹ Mohammed Omer, “Palestinians find shelter at Gaza hospital”, *Al Jazeera*, 17 August 2014, <http://www.aljazeera.com/news/middleeast/2014/08/gaza-shifa-hospital-palestinians-displaced-2014815113812371211.html> (accessed 14 March 2015).

⁸⁰ Joshua Levitt, “Finnish TV Reporter at Gaza’s Al Shifa Hospital: It’s True that Rockets Are Launched Here From the Gazan Side Into Israel”, *The Algemeiner*, 1 August 2014, <http://www.algemeiner.com/2014/08/01/finnish-tv-reporter-at-gazas-al-shifa-hospital-its-true-that-rockets-are-launched-here-from-the-gazan-side-into-israel-video/> (accessed 14 March 2015); the video clip of the correspondent is also available at <https://www.youtube.com/watch?v=Nu-e5qWXx-k> (accessed 14 March 2015).

⁸¹ *The Times of Israel*, “Finnish TV: Rockets from Gaza hospital”, 2 August 2014,

correspondent spent at the al-Shifa hospital, and whether she had information about additional launches from the compound. In a Facebook post, published on 2 August after the footage was shared widely on social media, she wrote that she had spent the night at the al-Shifa hospital “two weeks ago” and protested that the statement from her story had been taken out of context.⁸² Nevertheless, Amnesty International believes that the report is credible and the claim should be independently investigated, together with other reports and claims that Hamas leaders and security forces used facilities within the hospital for military purposes and interrogations during the hostilities.⁸³ Amnesty International spoke to a Palestinian journalist who was interrogated by officers from Hamas’ Internal Security in an abandoned section of the hospital during the conflict. Hamas’ Internal Security officials also prevented a fieldworker contracted by Amnesty International from photographing damage to the hospital’s outpatients’ clinic on 28 July, when the fieldworker arrived at the hospital shortly after an explosion which damaged the clinic just before 5pm. This incident, which occurred at almost exactly the same time as a projectile exploded in the al-Shati refugee camp, is discussed further in the next section.

The Greek Orthodox Church of Saint Porphyrius is located in the Zeitoun neighbourhood in the south of Gaza City. During the conflict, up to 2,000 people took shelter in the church compound;⁸⁴ many had fled under fire from Shuja’iyeh, the area to the north-east of Zeitoun, which was bombarded intensively by Israeli forces, particularly between 20 and 23 July. The area around the church came under Israeli fire on the night of 21 July. Parts of the cemetery and a neighbouring house belonging to the church were damaged, and shrapnel entered the church compound itself and punctured the water tanks.⁸⁵ Archbishop Alexios,

<http://www.timesofisrael.com/finnish-tv-rockets-fired-from-gaza-hospital/> (accessed 14 March 2015).

⁸² YNet, “Video: Finnish reporter sees rockets fired from Gaza hospital”, 2 August 2014, <http://www.ynetnews.com/articles/0,7340,L-4553643,00.html> (accessed 14 March 2015).

⁸³ Israel Ministry of Foreign Affairs, *Hamas’ Violations of the Law*, pp. 16-17; Israel Ministry of Foreign Affairs, “Hamas uses hospitals and ambulances for military-terrorist purposes”, 28 July 2014, <http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Pages/Hamas-uses-hospitals-and-ambulances-for-military-terrorist-purposes.aspx> (accessed 14 March 2015); William Booth, “While Israel held its fire, the militant group Hamas did not”, *The Washington Post*, 15 July 2014, http://www.washingtonpost.com/world/middle_east/while-israel-held-its-fire-the-militant-group-hamas-did-not/2014/07/15/116fd3d7-3c0f-4413-94a9-2ab16af1445d_story.html (accessed 14 March 2015); Daniel Bettini, “Foreign journalists reveal Hamas’ false front”, YNet, 7 August 2014, <http://www.ynetnews.com/articles/0,7340,L-4556016,00.html> (accessed 14 March 2015); Joshua Levitt, “Journalist Describes Interrogation at Hamas Headquarters Next to Emergency Room at Gaza’s Al Shifa Hospital”, *The Algemeiner*, 24 July 2014, <http://www.algemeiner.com/2014/07/24/french-journalist-describes-interrogation-at-hamas-headquarters-next-to-emergency-room-at-gazas-al-shifa-hospital/> (accessed 14 March 2015).

⁸⁴ Kim Sengupta, “Israel-Gaza conflict: Greek Orthodox church of St Porphyrios becomes a small refuge in the heart of Gaza’s bloodletting”, *The Independent*, 27 July 2014, <http://www.independent.co.uk/news/world/middle-east/israelgaza-conflict-greek-orthodox-church-of-st-porphyrus-becomes-a-small-refuge-in-the-heart-of-gazas-bloodletting-9631777.html> (accessed 14 March 2015).

⁸⁵ Peter Beaumont, “Gazans flee Israeli bombardment – into the path of more bombs”, *The Guardian*, 22 July 2014, <http://www.theguardian.com/world/2014/jul/22/gaza-displaced-palestinians-not-safe>

Gaza's Greek Orthodox leader, who opened the church to those fleeing the fighting, subsequently told a reporter that Palestinian fighters had used the church compound to launch rockets into Israel during the conflict.⁸⁶ Amnesty International has not been able to verify this but believes that the claim is credible, and that the actions of both Israeli forces and Palestinian armed groups in and around the church compound should be independently investigated.

The Israeli authorities have stated that the al-Wafa hospital in Shuja'iyyeh was used as a "command center, rocket-launching site, observation point, sniper's post, weapons storage facility, cover for tunnel infrastructure, and a general base for attacks against Israel."⁸⁷ The Israeli military attacked the hospital repeatedly during the hostilities. Patients were evacuated from the hospital under fire on the night of 17 July,⁸⁸ and further Israeli air strikes on 23 and 24 July destroyed the hospital almost completely. On 21 July, the Israeli military claimed on Twitter that an M-75 rocket had been fired from just outside the al-Wafa hospital on 14 July.⁸⁹ The image tweeted by the Israeli military does not match satellite images of the al-Wafa hospital and appears to depict a different location.⁹⁰ On 23 July, the Israeli military released video footage it described as showing gunfire from the hospital, as well as excerpts from telephone calls made to the hospital and footage showing secondary explosions at the hospital following Israeli strikes.⁹¹ An anti-tank missile was fired from the al-Wafa hospital on 24 July, according to media reports.⁹² Amnesty International has not been able to verify

(accessed 14 March 2015); Mohammed Omer, "Hiding in the shadow of the pastor in Gaza", *Al Jazeera*, 23 July 2014, <http://america.aljazeera.com/articles/2014/7/23/hiding-pastor-gaza.html> (accessed 14 March 2015).

⁸⁶ George Thomas, "Gaza Bishop: Hamas Used Church to Fire Rockets", *CBN News*, 8 August 2014, <http://www.cbn.com/cbnnews/insideisrael/2014/august/gaza-bishop-hamas-used-church-to-fire-rockets/> (accessed 14 March 2015); *The Times of Israel*, "Gaza archbishop says rockets were fired from church", 7 August 2014, <http://www.timesofisrael.com/gaza-archbishop-says-rockets-fired-from-church/> (accessed 14 March 2015).

⁸⁷ Israel Ministry of Foreign Affairs, "Hamas uses hospitals and ambulances for military-terrorist purposes", 28 July 2014, <http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Pages/Hamas-uses-hospitals-and-ambulances-for-military-terrorist-purposes.aspx> (accessed 14 March 2015). See also: Israel Ministry of Foreign Affairs, *Hamas' Violations of the Law*, p. 16-17; IDF Military Advocate General, "Decisions of the IDF Military Advocate General regarding Exceptional Incidents that Occurred during Operation 'Protective Edge' – Update No. 2", 7 December 2014, <http://www.mag.idf.il/261-6958-en/Patzar.aspx> (accessed 14 March 2015).

⁸⁸ Human Rights Watch, "Gaza: Airstrike Deaths Raise Concerns on Ground Offensive", 22 July 2014, <http://www.hrw.org/news/2014/07/22/gaza-airstrike-deaths-raise-concerns-ground-offensive> (accessed 14 March 2015).

⁸⁹ IDF Spokesperson, 21 July 2014, <https://twitter.com/IDFSpokesperson/status/491180162000494593> (accessed 14 March 2015).

⁹⁰ Nora Barrows-Friedman, "Israel used fabricated images to justify bombing al-Wafa hospital", 24 July 2014, <http://electronicintifada.net/blogs/nora-barrows-friedman/israel-used-fabricated-images-justify-bombing-al-wafa-hospital> (accessed 14 March 2015).

⁹¹ IDF, "Warning Call to Wafa Hospital Before IDF Targets Site", 23 July 2014, video, <https://www.youtube.com/watch?v=8O9AHzUKYk8> (accessed 14 March 2015).

⁹² Yaakov Lappin, "Terrorists fire anti-tank missile from Al-Wafa hospital in Gaza", *The Jerusalem Post*,

Israel's assertions that the hospital was used to launch rockets or for other military activities, but believes that the conduct of both Israeli forces and Palestinian armed groups in and around the hospital should be independently investigated. An internal investigation by the Israeli military into its attacks on al-Wafa hospital between 11 and 23 July found that the attacks had been conducted in accordance with international law, while noting that an attack on 11 July had been carried out without advance warning.⁹³

The Israeli military has stated that rockets or mortars were launched from within several schools in the Gaza Strip during the hostilities. Amnesty International has not been able to verify any of these specific claims, but believes that they should be independently investigated. The claims include: rockets launched from directly within a boys elementary school run by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) in Jabalia on 13 and 14 July;⁹⁴ rockets fired from the Abu Nur school in the al-Shati refugee camp on 20 July;⁹⁵ a rocket launched from within an UNRWA girls elementary school in Beit Lahiya on 1 August;⁹⁶ and mortars launched from within UNRWA's Shahada al-Manar boys elementary school in Shuja'iyyeh on 21, 22, and 25 August.⁹⁷ However, UNRWA informed Amnesty International that it does not run a "Shahada al-Manar boys elementary school" in Shuja'iyyeh, and that the alleged incidents relating to such a school did not involve an UNRWA facility.

The Israeli military has also claimed that a rocket was launched from within the Gaza power plant on 30 July.⁹⁸ This would be a violation of international humanitarian law, if confirmed; but it would not justify Israel's strike on the power plant the previous day, which badly damaged the plant, exacerbating already severe electricity blackouts and severely affecting water, sanitation, and medical services in many areas.⁹⁹ The attack on the Gaza Strip's sole power plant collectively punished Gaza's population and could amount to a war crime.¹⁰⁰ An

24 July 2014, <http://www.jpost.com/Operation-Protective-Edge/Terrorists-fire-anti-tank-missile-from-Al-Wafa-hospital-368818> (accessed 14 March 2015).

⁹³ IDF Military Advocate General, "Decisions of the IDF Military Advocate General regarding Exceptional Incidents that Occurred during Operation 'Protective Edge' – Update No. 2", 7 December 2014, <http://www.mag.idf.il/261-6958-en/Patzar.aspx> (accessed 14 March 2015).

⁹⁴ Israel Ministry of Foreign Affairs, *Hamas' Violations of the Law*, pp. 20, 23.

⁹⁵ Israel Ministry of Foreign Affairs, *Hamas' Violations of the Law*, p. 25; IDF, *Declassified Report Exposes Hamas Human Shield Policy*, slide 13.

⁹⁶ Israel Ministry of Foreign Affairs, *Hamas' Violations of the Law*, pp. 20, 22; IDF, *Declassified Report Exposes Hamas Human Shield Policy*, slide 14.

⁹⁷ Israel Ministry of Foreign Affairs, *Hamas' Violations of the Law*, pp. 20-21.

⁹⁸ IDF, *Declassified Report Exposes Hamas Human Shield Policy*, slide 34.

⁹⁹ Harriet Sherwood, "Gaza's only power plant destroyed in Israel's most intense air strike yet", *The Guardian*, 30 July 2014, <http://www.theguardian.com/world/2014/jul/29/gaza-power-plant-destroyed-israeli-airstrike-100-palestinians-dead> (accessed 14 March 2015).

¹⁰⁰ Amnesty International, "Israel/Gaza: Attack on UN school in Gaza a potential war crime that must be investigated", 30 July 2014 (<https://www.amnesty.org/en/articles/news/2014/07/israelgaza-attack-un-school-gaza-potential-war-crime-must-be-investigated/>); Human Rights Watch, "Gaza: Widespread Impact of Power Plant Attack", <http://www.hrw.org/news/2014/08/10/gaza-widespread-impact-power-plant-attack> (accessed 14 March 2015).

Israeli brigadier-general denied that Israel had targeted the power plant intentionally, but did not rule out the possibility that it was hit by mistake, and said that the military was investigating.¹⁰¹ No further updates on that investigation have been issued to Amnesty International's knowledge, and the actions of both Israeli forces and Palestinian armed groups in and around the Gaza power plant should be independently investigated.

LAUNCHING ATTACKS FROM THE VICINITY OF CIVILIAN BUILDINGS AND IN RESIDENTIAL AREAS

The Israeli military reported on 20 August 2014 that 1,600 out of 3,600 rockets fired by Palestinian armed groups since 8 July had been launched from civilian areas.¹⁰² Amnesty International has no way of verifying this or other statistics released by the Israeli authorities on the locations of rocket and mortar launches.¹⁰³ However, the numerous specific incidents of attacks launched in close proximity to civilian buildings reported by the Israeli authorities,¹⁰⁴ together with accounts of journalists in Gaza during the conflict and the findings of Amnesty International researchers documenting previous rounds of hostilities,¹⁰⁵ indicate that attacks by armed groups in Gaza launched from within residential areas were far from isolated occurrences.

A resident of the al-Karama neighbourhood, describing the events on 21 July 2014, when his parents and two of his nieces were killed in an Israeli air strike on their home, told Amnesty International: "That day, while I was resting, two Qassam rockets were fired from the right and left of the house, at the same time that the missiles from the plane hit us". The UN Office of the High Commissioner for Human Rights (OHCHR) documented cases of the firing of rockets from in and around a cemetery in the al-Faluja neighbourhood in densely populated Jabalia, in the northern Gaza Strip, on 20 and 29 July.¹⁰⁶

Palestinian human rights organizations faced huge difficulties documenting violations during the hostilities in Gaza, including cases where their researchers were killed or came under fire. Publishing information on violations by Palestinian armed groups can also be risky for local NGOs, particularly during periods of intense fighting and bombardment by Israel; human rights organizations and individual staff members have been threatened or attacked by

¹⁰¹ Mitch Ginsburg, "IDF General: Israel did not target Gaza's power plant", *The Times of Israel*, 30 July 2014, <http://www.timesofisrael.com/idf-general-israel-did-not-target-gazas-power-plant/> (accessed 14 March 2015).

¹⁰² IDF, *Declassified Report Exposes Hamas Human Shield Policy*, slide 2.

¹⁰³ Amnesty International requested detailed information from the Israeli authorities on rocket firing and other attacks by Palestinian armed groups from civilian areas, as well as other types of violations by Palestinian armed groups, but had not received a response as this report was being finalized.

¹⁰⁴ See in particular: Israel Ministry of Foreign Affairs, *Hamas' Violations of the Law*.

¹⁰⁵ See, for example, Amnesty International, *Israel/Gaza: Operation 'Cast Lead': 22 Days of Death and Destruction* (Index: MDE 15/015/2009), pp. 74-75, 2 July 2009 (<https://www.amnesty.org/en/documents/mde15/015/2009/en/>).

¹⁰⁶ "Addendum to Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1: The human rights situation in the Occupied Palestinian Territory between 12 June and 26 August 2014, including the escalation of hostilities between the State of Israel and Palestinian armed groups in Gaza," A/HRC/28/80/Add.1, 26 December 2014, pp. 18-19.

Palestinian armed groups in the past.¹⁰⁷ Together with Israel's continued denial of access to Gaza to international human rights organizations and UN-mandated investigators, this means that, even though only a handful of specific incidents of Palestinian attacks launched from civilian areas were documented by sources other than the Israeli military or authorities, this should not be taken as an indication that such attacks were infrequent.

Several international journalists reporting from Gaza City recorded footage of rockets being launched from close by, in some cases within metres, during the conflict. On 31 July, a France 24 correspondent was reporting live from a civilian area in Gaza City when a rocket was launched from very nearby.¹⁰⁸ The same reporter subsequently broadcast footage of the launcher he believed the rocket had been fired from, located some 50m from a hotel frequented by international correspondents, 100m away from a UN building, and very near several civilian homes; his report includes footage of children playing next to the rocket launcher.¹⁰⁹ A rocket launched on 31 July just down the street from an Al Jazeera film crew reporting from Gaza City was also captured on camera.¹¹⁰ On 4 August, beginning around 6.30am, a crew from NDTV, an Indian television network, filmed members of an armed group burying and rigging a rocket launcher under a tent in an open area next to the al-Mashtal hotel in Gaza City. The same film crew captured the launch of the rocket at around 7.50am on 5 August; it was one of several rockets launched around the same time, minutes before a temporary ceasefire was due to take effect at 8am. Their report noted that a rocket had been fired from the same location on 1 August. The hotel and area from which the rockets were launched are surrounded by residential buildings.¹¹¹

¹⁰⁷ See, for example, Amnesty International, " Hamas authorities must guarantee safety of human rights activist", 18 January 2012 (<https://www.amnesty.org/en/articles/news/2012/01/hamas-authorities-must-investigate-attacks-human-rights-defender-gaza/>).

¹⁰⁸ France 24, "Rocket fire caught live as France 24 correspondent reports from Gaza", video published on 31 July 2014, <https://www.youtube.com/watch?v=EaqWqjb4w6s> (accessed 14 March 2015).

¹⁰⁹ France 24, "Exclusive: Hamas rocket launch pad revealed near Gaza homes", video published on 5 August 2014, https://www.youtube.com/watch?v=uE3feo_b8Cg#t=54 (accessed 14 March 2015). See also France 24, "Exclusive: Hamas rocket launch pad lies near Gaza homes", 5 August 2014, <http://www.france24.com/en/20140805-exclusive-video-hamas-rocket-launching-pad-near-gaza-homes-un-building/> (accessed 14 March 2015).

¹¹⁰ Al Jazeera English, "Rocket fire caught on camera near Al Jazeera reporter Nicole Johnston's position in Gaza", video published on 31 July 2014, https://www.youtube.com/watch?v=coijJG_nvHY (accessed 14 March 2015). It is not clear whether this was the same rocket as that captured in the France 24 footage on the same evening.

¹¹¹ Sreenivasan Jain, "NDTV Exclusive: How Hamas Assembles and Fires Rockets", NDTV, 5 August 2014, <http://www.ndtv.com/world-news/ndtv-exclusive-how-hamas-assembles-and-fires-rockets-641680> (accessed 14 March 2015); see also Sreenivasan Jain, "Three Men, A Tent, and Some Shrubs: The Backstory of Our Hamas Report", NDTV, 7 August 2014, <http://www.ndtv.com/world-news/three-men-a-tent-and-some-shrubs-the-backstory-of-our-hamas-report-646582> (accessed 14 March 2015). The NDTV report said that the fact that the same launch site was used on at least two occasions and the timing of the launch, as part of a volley of rockets launched minutes before a temporary ceasefire was due to begin, indicated that Hamas' military wing was responsible, rather than a smaller armed group. Amnesty International was not able to confirm that the al-Qassam Brigades were responsible for this specific

The fact that all of these incidents documented by journalists occurred in a relatively small area of Gaza City likely reflects the concentration of international correspondents there during the hostilities, since many international reporters were based there as it was considered relatively safe. It should not be taken to imply that this was the only area where Palestinian armed groups launched rockets in close proximity to civilian buildings during the conflict; in fact, it is possible that armed groups took greater precautions in areas where they knew international media were present. According to some international correspondents, the lack of similar footage from other areas of the Gaza Strip reflected the very significant dangers facing journalists reporting during the hostilities, and the fact that the launchers, rockets, and launch crews were well hidden, rather than censorship by Hamas.¹¹² However, some foreign reporters experienced threats or intimidation from Hamas during the hostilities.¹¹³ On 11 August 2014, the Foreign Press Association issued a statement condemning the harassment, threats, and intimidation of international journalists in Gaza by the Hamas authorities, as well as a “vetting procedure” it said would allow for the blacklisting of individual journalists.¹¹⁴

The Israeli authorities have reported that Palestinian armed groups fired some 130 rockets and mortars within 25m of hospitals and health clinics in the Gaza Strip, citing specific incidents including launches near two clinics in al-Shuja'iyyeh, near two different medical facilities in Sheikh Radwan, and near ICRC facilities in Beit Lahiya and Jabalia.¹¹⁵ They have also reported that at least 89 rockets and mortar shells were launched within 30m of UN schools – citing specific incidents of launches near UNRWA schools in Gaza City, Beit Hanoun, Jabalia, Nuseirat, and Shuja'iyyeh – and that dozens of other launches occurred in the vicinity of non-UN schools.¹¹⁶ Additionally, they have stated that at least 83 rockets and mortars were launched from within 25m of mosques during the hostilities, in some cases from directly within the mosque compounds, citing in particular three different mosques in the Sheikh Radwan neighbourhood of Gaza City.¹¹⁷

Senior Hamas official Ghazi Hamad stated that rockets were fired “200 or 300 metres away” from schools or hospitals, and that many of the buildings concerned were kept vacant during the fighting, including schools that were empty to begin with because of the summer vacation, but acknowledged “there were some mistakes made and they were quickly dealt

launch.

¹¹² Anshel Pfeffer, “Foreign press: Hamas didn’t censor us in Gaza, they were nowhere to be found”, *Haaretz*, 8 August 2014, <http://www.haaretz.com/news/features/.premium-1.609589> (accessed 14 March 2015).

¹¹³ Matthew Kalman, “Foreign press divided over Hamas harassment”, *Haaretz*, 13 August 2014, <http://www.haaretz.com/blogs/2.1167/.premium-1.610241> (accessed 14 March 2015); Daniel Bettini, “Foreign journalists reveal Hamas’ false front”, *YNet*, 7 August 2014, <http://www.ynetnews.com/articles/0.7340.L-4556016.00.html> (accessed 14 March 2015).

¹¹⁴ Foreign Press Association, <http://www.fpa.org.il/?categoryId=73840> (accessed 14 March 2015).

¹¹⁵ Israel Ministry of Foreign Affairs, *Hamas’ Violations of the Law*, p. 18-19.

¹¹⁶ Israel Ministry of Foreign Affairs, *Hamas’ Violations of the Law*, p. 20-26. The Israeli claim that rockets were fired near an UNRWA school in Shuja'iyyeh also referred to the “Shuhada al-Manar elementary school”. UNRWA informed Amnesty International that the agency does not run such a school, and that this incident did not relate to an UNRWA facility.

¹¹⁷ Israel Ministry of Foreign Affairs, *Hamas’ Violations of the Law*, p. 30.

with.”¹¹⁸

Amnesty International has not been able to verify that rockets or mortars were fired from the specific sites claimed by the Israeli authorities. Nor can the organization verify the precise distances between the purported launch sites and civilian objects such as schools, hospitals or homes, or whether such buildings were being used by civilians or had in fact been evacuated at the time rocket or mortar attacks were launched nearby. Nevertheless, the available evidence indicates that Palestinian armed groups fired rockets and mortars from residential areas during the July/August 2014 conflict, and that on at least some occasions, projectiles were launched in close proximity to civilian buildings. It should be noted that even though the overall population density in the Gaza Strip is very high, particularly in and around Gaza City,¹¹⁹ significant areas within the 365km² of territory are not residential, and conducting hostilities or launching munitions from these areas presents a lower risk of endangering Palestinian civilians.

USING CIVILIAN BUILDINGS AND FACILITIES FOR OTHER MILITARY PURPOSES

Palestinian armed groups stored rockets and other munitions in civilian buildings and facilities, including UN schools, during the conflict. UNRWA discovered Palestinian munitions in three of its vacant schools in the Gaza Strip. On 16 July, during a regular inspection, the agency discovered approximately 20 rockets in an elementary school in Gaza City.¹²⁰ On 22 July, during another inspection, rockets were found in an elementary school in Jabalia;¹²¹ the school was vacant at the time, but two UNRWA schools on either side of it were each hosting around 1,500 displaced civilians. On 29 July, another cache of rockets was discovered at a school in Nuseirat.¹²² On all three occasions, UNRWA and various other UN officials condemned the storage of munitions and demanded that all parties respect the inviolability of UN premises in Gaza. An “internal and independent” UN Headquarters Board of Inquiry, announced by UN Secretary-General Ban Ki-moon on 10 November 2014, is

¹¹⁸ Hamza Hendawi and Josef Federman, “Evidence growing that Hamas used residential areas as cover for firing rockets at Israel”, AP, 12 September 2014,

<http://www.theglobeandmail.com/news/world/evidence-growing-that-hamas-used-residential-areas-as-cover-for-firing-rockets-at-israel/article20572875/> (accessed 14 March 2015).

¹¹⁹ BBC, “Life in the Gaza Strip”, 14 July 2014, <http://www.bbc.co.uk/news/world-middle-east-20415675> (accessed 14 March 2015); Adam Taylor, “Gaza City is being hit by missile strikes. This is how densely populated it is”, *The Washington Post*, 14 July 2014,

<http://www.washingtonpost.com/blogs/worldviews/wp/2014/07/14/gaza-city-is-being-hit-by-missile-strikes-this-is-how-densely-populated-it-is/> (accessed 14 March 2015).

¹²⁰ UNRWA, “UNRWA strongly condemns placement of rockets in school”, 17 July 2014, <http://www.unrwa.org/newsroom/press-releases/unrwa-strongly-condemns-placement-rockets-school> (accessed 14 March 2015); Israel Ministry of Foreign Affairs, *Hamas’ Violations of the Law*, p. 24.

¹²¹ UNRWA, “UNRWA condemns placement of rockets, for a second time, in one of its schools”, 22 July 2014, <http://www.unrwa.org/newsroom/press-releases/unrwa-condemns-placement-rockets-second-time-one-its-schools> (accessed 14 March 2015); Israel Ministry of Foreign Affairs, *Hamas’ Violations of the Law*, pp. 23-24.

¹²² UNRWA, “Cache of rockets found in UN school in Gaza”, 29 July 2014, <http://www.unrwa.org/newsroom/press-releases/cache-rockets-found-un-school-gaza> (accessed 14 March 2015); Israel Ministry of Foreign Affairs, *Hamas’ Violations of the Law*, p. 24.

expected to consider these incidents, as well as attacks that killed or injured civilians sheltering in UNRWA schools or damaged UN facilities.¹²³

On 21 July, the Israeli military shelled Shuhada al-Aqsa hospital in Deir al-Balah, killing at least four people and wounding dozens.¹²⁴ The Israeli military told CNN that a cache of anti-tank missiles stored “in the immediate vicinity of the hospital” was targeted by Israeli forces.¹²⁵ Amnesty International has not been able to confirm this. If Palestinian armed groups violated international humanitarian law by storing munitions near the hospital, and this was what Israel was targeting when it struck the hospital and killed civilians, serious concerns about the manner and execution of Israel’s attack would remain. The actions of Israeli forces and Palestinian armed groups in and around the hospital should be independently investigated.

On 22 July, the Israeli military released video footage which it claimed showed Palestinian fighters entering an ambulance.¹²⁶ Amnesty International has not been able to verify the use of ambulances by Palestinian armed groups during the conflict.

ALLEGATIONS CONCERNING THE USE OF “HUMAN SHIELDS”

During and after the hostilities, the Israeli authorities repeatedly stated that Hamas used Palestinian civilians in the Gaza Strip as “human shields”.¹²⁷ At different times during the fighting, Israeli officials pointed to numerous actions by Hamas and Palestinian armed

¹²³ “Statement attributable to the Spokesman for the Secretary-General on the Gaza Board of Inquiry”, 10 November 2014, <http://www.un.org/sg/statements/index.asp?nid=8179> (accessed 14 March 2015); UN News Centre, “Gaza: Ban forms independent panel to investigate recent conflict”, 10 November 2014, <http://www.un.org/apps/news/story.asp?NewsID=49296#.VPhGYPmsUeE> (accessed 14 March 2015).

¹²⁴ Amnesty International, “Israel/Gaza: Attacks on medical facilities and civilians add to war crime allegations”, 21 July 2014 (<https://www.amnesty.org/en/articles/news/2014/07/israelgaza-attacks-medical-facilities-and-civilians-add-war-crime-allegations/>); Amnesty International, *Israel and the Occupied Palestinian Territories: Evidence of medical workers and facilities being targeted by Israeli forces in Gaza* (Index: MDE 15/023/2014), 7 August 2014, p. 6 (<https://www.amnesty.org/en/documents/mde15/023/2014/en/>).

¹²⁵ Kareem Khadder and Tim Lister, “In Gaza, attack on hospital delivers devastation and grief”, CNN, 22 July 2014, <http://edition.cnn.com/2014/07/21/world/meast/gaza-hospital-attack-video/> (accessed 14 March 2015).

¹²⁶ IDF, “Terrorists Use Ambulance for Transportation in Gaza”, video published on 22 July 2014, <http://youtu.be/7O114V9PdmM?list=UUawNWlihdgaycQpO3zi-jYg> (accessed 14 March 2015); see also IDF, “Hamas Uses Hospitals and Ambulances for Military Purposes”, 28 July 2014, <http://www.idfblog.com/blog/2014/07/28/hamas-uses-hospitals-ambulances-military-purposes/> (accessed 14 March 2015).

¹²⁷ See, for example, IDF, “Hamas’ Use of Human Shields is a War Crime”, 14 July 2014, <http://www.idfblog.com/blog/2014/07/14/hamas-use-human-shields-war-crime/> (accessed 14 March 2015); Israel Ministry of Foreign Affairs, “Hamas’ use of civilians as human shields”, 20 July 2014, <http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Pages/Hamas-use-of-civilians-as-human-shields-20-Jul-2014.aspx> (accessed 14 March 2015); Israel Ministry of Foreign Affairs, *Hamas’ Violations of the Law*, pp. 37-41.

groups as examples of using civilians in Gaza to shield military activities. These included basing fighters within residential areas; urging civilians not to leave their homes after warnings from Israel; using civilian structures for military activity; storing rockets and other weapons in civilian structures and within populated areas; firing rockets from within or in close proximity to civilian buildings; taking cover in civilian buildings after firing; and building tunnels within civilian areas or under civilian structures.

Several of these actions which have been discussed above, such as storing munitions in civilian buildings or launching attacks from the vicinity of civilian buildings, violate the obligation to take all feasible precautions to protect civilians from the effects of attacks. But they do not necessarily amount to the specific violation of using “human shields” under international humanitarian law, which entails “using the presence (or movements) of civilians or other protected persons to render certain points or areas (or military forces) immune from military operations.” The practices most commonly condemned as such have involved actually moving civilians to military objectives in order to shield those objectives from attack. According to the International Committee of the Red Cross (ICRC), “the use of human shields requires an intentional co-location of military objectives and civilians or persons *hors de combat* with the specific intent of trying to prevent the targeting of those military objectives.”

Amnesty International has not been able to verify specific statements which the Israeli authorities have cited as made by Hamas officials during the hostilities encouraging civilians in Gaza to ignore IDF warnings to evacuate.¹²⁸ However, the reported statements were directed to civilians in general or in large geographic areas; for example, Ministry of Interior spokesperson Iyad al-Buzm’s call on people “in all parts of the Strip to ignore the warnings... as these are part of a psychological warfare”. Public statements referring to entire areas do not amount to directing specific civilians to remain in their homes in order to render fighters, munitions or military equipment in specific locations immune from Israeli attacks. Thus, while potentially of concern, such statements would not constitute the use of “human shields”. There are no bomb shelters or protective facilities for Gaza’s 1.8 million people, and no place in the Strip was truly safe during the hostilities. In some cases, the warnings issued by the Israeli military did not specify safe evacuation routes, and in many cases, civilians who tried to evacuate came under Israeli fire. In these circumstances, the Hamas authorities instructing civilians in the Gaza Strip not to leave their homes could have been out of concern for their safety or a desire to avoid further panic. It cannot be presumed that the intention of any such statements by the authorities was to use civilians to prevent the targeting of specific military objectives by Israeli forces.

The Israeli authorities have claimed that in a few incidents, the Hamas authorities or Palestinian fighters directed or physically coerced individual civilians in specific locations to shield combatants or military objectives.¹²⁹ Amnesty International has not been able to corroborate the facts in any of these cases. Specific assertions of the use of civilians as “human shields” by Palestinian armed groups in the Gaza Strip should be independently investigated. International humanitarian law is clear that, even if officials or fighters from

¹²⁸ For a list of statements cited by the Israeli authorities, see Israel Ministry of Foreign Affairs, *Hamas’ Violations of the Law*, pp. 38-39.

¹²⁹ Israel Ministry of Foreign Affairs, *Hamas’ Violations of the Law*, p. 40.

Hamas or Palestinian armed groups associated with other factions did in fact direct civilians to remain in a specific location in order to shield military objectives, it would not relieve Israel of its obligation to take all necessary precautions to minimize harm to civilians when planning and carrying out attacks on these objective.

DEATHS OF 13 CIVILIANS IN AL-SHATI REFUGEE CAMP, 28 JULY

Shortly before 5pm on 28 July 2014, which was the first day of the Muslim holiday of Eid al-Fitr, journalists in Gaza City reported hearing two impact explosions within seconds of each other.¹³⁰ One projectile landed near the outpatients' clinic within the al-Shifa hospital compound, damaging the clinic and the wall surrounding the compound. A fieldworker contracted by Amnesty International, who was at his home in Gaza City, very close to the al-Shifa hospital, when the explosion occurred, was prevented from photographing damage at the hospital by Hamas Internal Security officials when he arrived there shortly afterwards. A second projectile landed in the al-Shati refugee camp of Gaza City, in the Harakat al-Ahrar area, next to a supermarket owned by Yasser Mahmoud Mustafa Abu Shaqfa, 46. Both the street and the supermarket were crowded with children playing and buying toys for the Eid holiday. He described what happened:

It was the first day of Eid, about 4.45pm. The children were happy, celebrating Eid after the month of Ramadan. They were playing in the street, and some of them came in to me, in the supermarket. I own the shop. There were about 11 children inside with me. Five children inside the supermarket were killed, and another five in the street were killed. They were buying crisps and soft drinks and juice, playing and enjoying themselves. And the next thing we knew, the rocket fell, near the door of the shop. We cannot have been the targets, nor the children. I don't know how it happened.

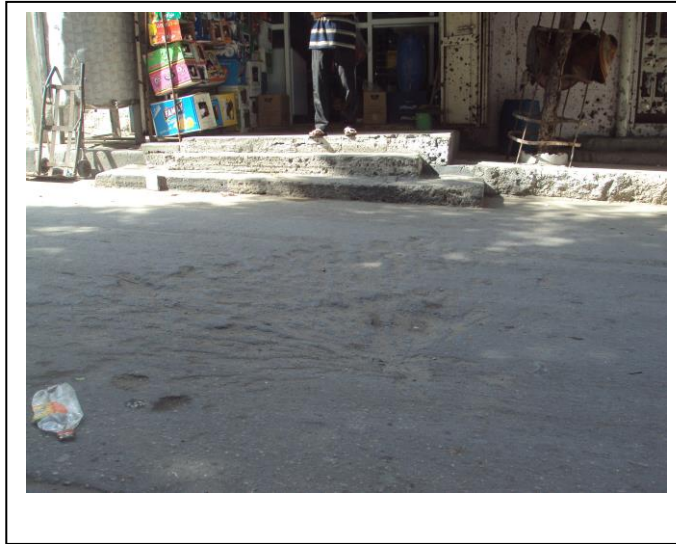
The children killed were:

1. Jamal Saleh 'Aleiyen, 9
2. Ahmad Jaber Wishah, 8
3. Bira'a Akram 'Abdallah Miqdad, 7
4. Muhammad Nahed 'Abdallah Miqdad, 14
5. Mahmoud Hazem Shubair, 8
6. Ahmad Hazem Shubair, 7
7. Muhammad 'Imad Baroud, 11
8. Muhammad Mahmoud Abu Shaqfa, 8
9. Yousef 'Abd al-Rahman Abbas Hassouneh, 12
10. Mansour Rami Hajjaj, 14
11. Osama Ahmad 'Abd al-Razeq al-Hilu, 5, died of wounds on 30 July

Subhi 'Awwad al-Hilu, 60, who was walking in the street, was also killed. He was a resident of Shuja'iyyeh who had fled the bombardment there and was renting a room in the al-Shati

¹³⁰ Paul Mason, "Shifa and Beach Camp Attacks, My Evidence", 28 July 2014

<http://paulmasonnews.tumblr.com/post/93149833609/shifa-and-beach-camp-attacks-my-evidence> (accessed 14 March 2015).



refugee camp. Sha'aban Mustafa Abu Shaqfa, 51, who was sitting in the street opposite the shop, was severely wounded by the blast, and died of his injuries on 31 July. Nineteen other people were wounded, most of them children, according to the Ministry of Health in the Gaza Strip.

Hassan Nur Sabah Mustafa Abu Shaqfa and Mahmoud Muhammad Mustafa Abu Shaqfa, 29, were sitting in the street next to their uncle,

Sha'aban, facing Yasser's shop about 8m away, watching the children play, when the projectile struck. Hassan told Amnesty International:

There was a temporary humanitarian ceasefire; it was the first day of Eid. Mahmoud said that a missile could still come down on us at any moment, even while we were

Picture of the impact made when a rocket fired by an armed Palestinian group aimed at Israel fell short and hit a street in the al-Shati refugee camp, north-west of Gaza City on 28 July 2014. The attack killed 11 children and two adults. © Amnesty International

sitting here. My uncle told him no, there's no way a missile would be fired at us sitting here. They were sitting

discussing this... the kids were running around in the street, playing, going into the shop. The al-Shati refugee camp is very crowded, because of the overcrowding and because the electricity was cut off, many children were playing in the street. A few seconds later the rocket fell on us. I saw it with my own eyes as it descended and exploded with a flash. My uncle Sha'aban's arm was blown off at the shoulder. His blood flew onto my face. Once they got me to the al-Shifa hospital, they thought my face had been burnt, but it was my uncle's blood... I got shrapnel in my right arm, my right leg was also wounded, and a small piece of shrapnel hit my head. My uncle was thrown onto the ground; I looked at him and he was not moving.

Mahmoud Abu Shaqfa and his five-year-old son, Khaled, were both seriously wounded by the projectile, and his eight-year-old son Muhammad was killed. He told Amnesty International:

We were sitting there talking. I said to Abu Shadi, my uncle [Sha'aban], that there were so many kids riding on tuk-tuks [motorized rickshaws] and motorcycles and playing in the street, and we didn't even know if there was a temporary ceasefire or not. I said that if a missile were to be fired at us now, it would take out all of us. He said, 'Don't be silly. The Israelis wouldn't fire here, where there's no one launching rockets or fighting.'... We kept discussing this, and we didn't feel how the rocket

fell. A huge, extraordinary explosion shook the whole area...

Mahmoud said that he saw a long projectile that exploded, releasing lots of smoke and light, before it struck the ground in front of the shop, without penetrating the ground deeply. Many of those killed were standing in or near the doorway of the shop. Mahmoud described what happened after the explosion:



Damage to the outpatients' clinic of al-Shifa hospital in Gaza City on 28 July 2014, which evidence suggests was caused by a rocket attack by an armed Palestinian group that was aimed at Israel but fell short. © Amnesty International

After the rocket landed, we barely knew what was happening. But before I passed out... my son [Muhammad], who was killed, had been hiding behind the car, playing with the kids. The rocket fell near the car, and near him. It was a Mitsubishi. The whole car was pierced by

shrapnel. A piece of shrapnel pierced me, I didn't see it. My son [Khaled] came to me, he was screaming, 'Daddy, get up, get up.' I was sitting on the ground, holding my leg, my entire leg was torn open, and my arm had been wrenched to my back. The nerves were broken. I couldn't feel anything. I looked around and saw Hassan, my cousin, bleeding badly, and my uncle [Sha'aban] lying on his back on the ground with his arm blown off, not moving...

The dead and wounded were taken to the al-Shifa hospital. Mahmoud described his injuries:

Eventually I woke up and they told me that I had shrapnel in my leg and arm. I found that my leg was held together by a device, and my arm with another device. There were 16 stitches in my stomach; they had removed part of my intestines, and sewn me back together. And there was shrapnel in other parts of my body.

Mahmoud's younger son, Khaled, was hit in the head by shrapnel, and was placed in intensive care. Mahmoud, Hassan, and Khaled Abu Shaqfa were transferred to Egypt about a week later for medical treatment. It was only just before he was transferred to Egypt that Mahmoud's family told him that his son Muhammad had been killed.

When asked about the source of the projectile, Hassan said:

There's no way to be certain. No one has claimed responsibility. The Israelis have denied it was them. The resistance factions here that launch rockets – none of them have given information about this. Really, we wish we knew from where this rocket came. Everyone denies it, because most of those killed were children. The children were blameless, and they were killed.

Hassan is correct that everyone has denied responsibility for the projectile that caused such carnage in the al-Shati refugee camp that day. Within hours of the incident, the Israeli military issued a tweet with an aerial photograph showing the paths of four rockets fired at “approximately 16:58” from points in Gaza City to the south of the al-Shifa hospital and the al-Shati refugee camp. According to the tweet, one rocket hit the al-Shifa hospital, a second hit the al-Shati camp, a third landed in the sea, and a fourth, directed towards Ashkelon in Israel, was intercepted.¹³¹ Senior Israeli military officials told various media outlets that the rockets were fired by Palestinians, with some specifying that they were launched by Islamic Jihad.¹³² Israel's Channel 2 reported that one of the rockets was a Fajr-5 with “at least a 100 kg (220 lbs) warhead”.¹³³ Subsequent publications by the Israeli authorities have also insisted that the projectiles were Palestinian rockets.¹³⁴ An update on Israel's investigations, issued by the Military Advocate General (MAG) in December 2014, stated that the MAG had closed the investigation into the incident, after the military's General Staff Mechanism for Fact-Finding Assessments found that no Israeli strike on 28 July on the al-Shifa hospital or the al-Shati camp could be identified. According to the update, “Israel's technical systems recorded in real-time the path of a salvo of missiles fired from within the Gaza Strip, seemingly by Hamas or Palestinian Islamic Jihad, which landed in the medical clinics and in the Shati Refugee Camp at the time of the alleged incident.”¹³⁵

Palestinian officials in the Gaza Strip, on the other hand, stated shortly after the explosion that the Israeli military was responsible. Hamas denied it had fired any rockets in the area

¹³¹ IDF Spokesperson, 28 July 2014, <https://twitter.com/IDFSpokesperson/status/493900772988682241> (accessed 14 March 2015).

¹³² Ma'an News Agency, “10 Palestinians killed as Israel bombs Gaza playground”, 28 July 2014, <http://www.maannews.com/eng/ViewDetails.aspx?id=716699> (accessed 14 March 2015); AFP and Yifa Yaakov, “IDF: Terrorists' rockets hit Gaza hospital, refugee camp”, *The Times of Israel*, 28 July 2014, <http://www.timesofisrael.com/idf-terrorists-rockets-hit-gaza-hospital-refugee-camp/> (accessed 14 March 2015).

¹³³ Dave Bender, “IDF: Palestinian Casualties at Gaza's Al-Shifa Hospital, Al-Shati Camp From Terrorists' Rockets Falling Short”, *The Algemeiner*, 28 July 2014, <http://www.algemeiner.com/2014/07/28/idf-palestinian-casualties-at-gazas-al-shifa-hospital-al-shati-camp-from-hamas-rockets-falling-short/> (accessed 14 March 2015).

¹³⁴ IDF, “Hamas Launches Rockets on Civilians in Gaza”, 31 July 2014, <http://www.idfblog.com/blog/2014/07/31/hamas-launches-rockets-civilians-gaza/> (accessed 14 March 2015); Israel Ministry of Foreign Affairs, *Hamas' Violations of the Law*, p. 9.

¹³⁵ IDF Military Advocate General, “Decisions of the IDF Military Advocate General regarding Exceptional Incidents that Occurred during Operation 'Protective Edge' – Update No. 2”, 7 December 2014, <http://www.mag.idf.il/261-6958-en/Patzar.aspx> (accessed 14 March 2015).

and said it was “categorically an airstrike by Israel”.¹³⁶ Hamas spokesperson Sami Abu Zuhri sent a message to journalists saying: “The story being put forth by the ‘Occupation’ that resistance rockets fell in Shifa Hospital and at the Children’s Park in the Al-Shati Refugee Camp is a failed attempt to escape from this crime and its fears that this crime will be exposed and held judicially accountable. In addition, Israeli shrapnel has been collected as evidence from these scenes.”¹³⁷ Iyad al-Buzm, spokesperson for the Ministry of the Interior in Gaza, which is part of the Hamas administration, also stated that explosives experts from the Gaza police had inspected the targeted sites and remnants of Israeli projectiles which fell there, and that the remnants clearly proved that the missiles had been fired by Israel.¹³⁸ According to media reports, Islamic Jihad also denied responsibility for the incident,¹³⁹ said that targeting children was part of the “systematic aggressive policies of the Israeli occupation”, and promised a strong response.¹⁴⁰ Amnesty International could not find a statement by Islamic Jihad on the incident on its websites.

The fieldworker contracted by Amnesty International, who reached the site in the al-Shati camp about 30 minutes after the projectile exploded, found that almost all the shrapnel and remnants from the projectile had already been collected by civil defence personnel, who report to the Hamas authorities. The fieldworker photographed holes from shrapnel in the car parked next to where the projectile landed and in surrounding buildings, the swings where some of the children were playing, and other evidence from the scene. He returned to the site about two hours later, once all the dead and wounded had been transported to al-Shifa hospital, and photographed small pieces of shrapnel which had been collected by residents. He returned again subsequently and photographed the precise impact site of the projectile. Amnesty International also obtained raw video footage of the scene taken by residents and some of those wounded in the minutes after the explosion, in which a large metal remnant from the projectile, about 1.5m long, was identified.

An independent munitions expert who examined all of this evidence told Amnesty International that it strongly indicated that the projectile was a Palestinian rocket. The blast crater was too shallow to have been caused by an artillery or mortar shell or a missile fired by

¹³⁶ Al Jazeera, “Children killed in Gaza playground shelling”, 29 July 2014, <http://www.aljazeera.com/news/middleeast/2014/07/deaths-as-israel-resumes-gaza-strikes-20147281452469626.html> (accessed 14 March 2015).

¹³⁷ Ayman Mohyeldin, Paul Ziad Nasser and Alexander Smith, “Strikes Near Gaza’s Shifa Hospital, Refugee Camp Kill at Least 10”, NBC News, 28 July 2014, <http://www.nbcnews.com/storyline/middle-east-unrest/strikes-near-gazas-shifa-hospital-refugee-camp-kill-least-10-n166571> (accessed 14 March 2015).

¹³⁸ Ministry of Interior and National Security (Gaza), “Statement: The allegations of the occupation are a failed attempt to escape responsibility for its crimes”, 28 July 2014, <http://www.moi.gov.ps/news/68473/> (in Arabic, accessed 14 March 2015).

¹³⁹ Amira Hass and Jack Khoury, “30 Palestinians dead as holiday quiet shattered”, *Haaretz*, 28 July 2014, <http://www.haaretz.com/news/diplomacy-defense/israel-gaza-conflict-2014/premium-1.607739> (accessed 14 March 2015).

¹⁴⁰ Ma’an News Agency, “Hamas and Jihad: The resistance will respond strongly to the al-Shati massacre”, 28 July 2014, <http://maannews.net/Content.aspx?id=716713> (in Arabic, accessed 14 March 2015).

a drone, and its circumference was too wide to have been caused by a tank shell. The shrapnel holes in the car and surrounding buildings were too large to have been caused by a drone-fired missile of the types generally used by Israeli forces and documented by Amnesty International and munitions experts in previous conflicts. The large remnant from the projectile identified in the video footage was not consistent with any munitions known to be used by Israeli forces, instead resembling remnants of rockets used by Palestinian armed groups in the Gaza Strip which Amnesty International photographed after the November 2012 conflict.

Amnesty International has received no substantive response to its inquiries about this incident from the Palestinian authorities. An independent and impartial investigation is needed, and both the Palestinian and Israeli authorities must co-operate fully. The attack appears to have violated international humanitarian law in several ways, as the evidence indicates that it was an indiscriminate attack using a prohibited weapon which may well have been fired from a residential area within the Gaza Strip and may have been intended to strike civilians in Israel. If the projectile is confirmed to be a Palestinian rocket, those who fired it and those who commanded them must be investigated for responsibility for war crimes. The Abu Shaqfa family and all the others whose relatives were killed and injured deserve truth, justice and reparation. Civilians on both sides of the Gaza/Israel border deserve to know the true casualty toll of the indiscriminate munitions fired by Palestinian armed groups, just as much as they deserve to know the truth about casualties caused by Israeli forces.

INTERNATIONAL HUMANITARIAN LAW

The conduct of Palestinian armed groups fighting against Israeli forces is governed by international humanitarian law. Also known as the laws of war, international humanitarian law applies to situations of armed conflict and occupation. It contains the rules and principles that seek to protect primarily those who are not participating in hostilities, notably civilians, but also certain combatants, including those who are wounded, sick or captured (rendered *hors de combat*). It sets out standards of humane conduct and limits the means and methods of conducting military operations. Its central purpose is to limit, to the extent feasible, human suffering in times of armed conflict. The rules of international humanitarian law cited below are part of customary international law and are binding on all parties to an armed conflict – state forces and non-state armed groups.

A fundamental rule of international humanitarian law is that parties to any conflict must at all times “distinguish between civilians and combatants”, especially in that “attacks may only be directed against combatants” and “must not be directed against civilians.”¹⁴¹ A similar rule requires parties to distinguish between “civilian objects” and “military objectives”. These rules are part of the fundamental principle of “distinction”.

For the purposes of distinction, anyone who is not a member of the armed forces of a party to the conflict is a civilian, and the civilian population comprises all persons who are not combatants.¹⁴² Civilians are protected against attack unless and for such time as they take a direct part in hostilities.¹⁴³

Civilian objects are all objects (that is, buildings, structures, places, and other physical property or environments) which are not “military objectives”, and military objectives are “limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage.”¹⁴⁴ Civilian objects are protected against attack, unless and for such time as they become military objectives because all of the criteria for a military objective just described become temporarily fulfilled.¹⁴⁵ In cases of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling, or a school or medical facility, is being used for military purposes, it is to be presumed not to be

¹⁴¹ ICRC Customary International Humanitarian Law Study, Rule 1 (ICRC Customary IHL Study); see also Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), Article 48, and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), Article 12(2).

¹⁴² ICRC Customary IHL Study, Rule 5; see also Protocol I, Article 50.

¹⁴³ ICRC Customary IHL Study, Rule 6; see also Protocol I, Article 51(3); Protocol II, Article 13(3).

¹⁴⁴ ICRC Customary IHL Study, Rules 8 and 9; Protocol I, Article 52.

¹⁴⁵ ICRC Customary IHL Study, Rule 10.

so used.¹⁴⁶

Article 50(3) of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) states that “The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.” The fact that individual combatants are located among civilians does not relieve the attacking party of its obligations with respect to civilians, including the principle of distinction, the prohibition on indiscriminate or disproportionate attacks, and the precautions in attack explained below.

Intentionally directing attacks against civilians not taking direct part in hostilities, or against civilian objects is a war crime.¹⁴⁷ The principle of distinction also includes a specific rule that “acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.”¹⁴⁸

The corollary of the principle of distinction is that “indiscriminate attacks are prohibited”.¹⁴⁹ Indiscriminate attacks are those that are of a nature to strike military objectives and civilians or civilian objects without distinction, either because the attack is not directed at a specific military objective, or because it employs a method or means of combat that cannot be directed at a specific military objective or has effects that cannot be limited as required by international humanitarian law.¹⁵⁰

International humanitarian law also prohibits disproportionate attacks, which are those “which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”¹⁵¹ Intentionally launching an indiscriminate attack resulting in death or injury to civilians, or a disproportionate attack (that is, knowing that the attack will cause excessive incidental civilian loss, injury or damage) constitutes a war crime.¹⁵²

International humanitarian law prohibits the use of weapons that are by nature indiscriminate.¹⁵³ This includes weapons that cannot be directed at a military objective or whose effects cannot be limited as required by international humanitarian law. The authoritative ICRC Commentary on the Additional Protocols to the Geneva Conventions specifically mentions “long-range missiles which cannot be aimed exactly at the objective” as

¹⁴⁶ Protocol I, Article 52(3). See also ICRC Customary IHL Study, pp. 34-36.

¹⁴⁷ ICRC Customary IHL Study, Rule 156, pp. 591, 593, 595-598. See also Rome Statute of the ICC, Articles 8(2)(b)(i) and (ii) and 8(2)(e)(i)(ii)(iv) and (xii). See also discussion in ICRC Customary IHL Study, p. 27.

¹⁴⁸ ICRC Customary IHL Study, Rule 2; see also Protocol I, Article 51(2) and Protocol II Articles 12(2).

¹⁴⁹ ICRC Customary IHL Study, Rule 11; Protocol I, Article 51(4).

¹⁵⁰ ICRC Customary IHL Study, Rule 12; Protocol I, Article 51(4)(a).

¹⁵¹ ICRC Customary IHL Study, Rule 14; Protocol I, Articles 51(5)(b) and 57.

¹⁵² ICRC Customary IHL Study, Rule 156, pp. 599-601.

¹⁵³ ICRC Customary IHL Study, Rule 71.

an example of indiscriminate weapons.¹⁵⁴ Using prohibited weapons is a war crime.¹⁵⁵

The protection of the civilian population and civilian objects is further underpinned by the requirement that all parties to a conflict take precautions in attack. In the conduct of military operations, then, “constant care must be taken to spare the civilian population, civilians and civilian objects”; “all feasible precautions” must be taken to avoid and minimize incidental loss of civilian life, injury to civilians and damage to civilian objects.¹⁵⁶ The parties must choose means and methods of warfare with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.¹⁵⁷ Everything feasible must be done to verify that targets are military objectives, to assess the proportionality of attacks, and to halt attacks if it becomes apparent they are wrongly directed or disproportionate.¹⁵⁸ Where circumstances permit, parties must give effective advance warning of attacks which may affect the civilian population.¹⁵⁹

Parties must choose appropriate means and methods of attack when military targets are located within residential areas. This requirement rules out the use of certain types of weapons and tactics. The use of weapons that are inherently indiscriminate such as unguided rockets is prohibited. And the use in densely populated areas of imprecise weapons that cannot be directed at a military objective with sufficient precision, such as mortars, is likely to result in indiscriminate attacks and is also prohibited. Choosing methods of attack (for example, attacking objectives at times when many civilians are most likely to be present) that do not minimize the risk to civilians also violates international humanitarian law.

Warring parties have obligations to take precautions to protect civilians and civilian objects under their control against the effects of attacks by the adversary. As with precautions in attack, these rules are particularly important when fighting is taking place in areas with large numbers of civilians. Each party to the conflict must, to the extent feasible, avoid locating military objectives within or near densely populated areas.¹⁶⁰ They must also, to the extent feasible, remove civilians and civilian objects under their control from the vicinity of military objectives.¹⁶¹

¹⁵⁴ Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1948, ICRC, 1987, para. 1,958, p. 621.

¹⁵⁵ ICRC Customary IHL Study, Rule 156, pp. 599-600

¹⁵⁶ ICRC Customary IHL Study, Rule 15. See also Protocol II, Article 13(1).

¹⁵⁷ ICRC Customary IHL Study, Rule 17.

¹⁵⁸ ICRC Customary IHL Study, Rules 16-19.

¹⁵⁹ ICRC Customary IHL Study, Rule 20.

¹⁶⁰ ICRC Customary IHL Study, Rule 23; see also Protocol I, Article 58(b).

¹⁶¹ ICRC Customary IHL Study, Rule 24

ACCOUNTABILITY

States have a duty under customary international humanitarian law to investigate war crimes allegedly committed by their nationals or armed forces, or on their territory, and to prosecute the suspects.¹⁶² And all states may exercise universal jurisdiction to try war crimes in their national courts.¹⁶³

According to publicly available information, neither the Palestinian government nor the Hamas authorities in the Gaza Strip has opened investigations into violations of international humanitarian law committed by Palestinian armed groups that engaged in the recent bout of hostilities with Israel. This echoes the failure of the Palestinian authorities to investigate violations committed in previous conflicts.¹⁶⁴ Following Israel's Operation Cast Lead, in 2008-2009, both the Palestinian Authority and the Hamas de facto administration in the Gaza Strip established committees to examine violations committed during the conflict, although the committees established by Hamas only examined Israeli violations. In February 2015, Palestinian President Mahmoud Abbas established a national committee to oversee preparation of files on alleged crimes by Israeli forces during the 2014 conflict for submission to the International Criminal Court,¹⁶⁵ but there is no indication that this committee is examining violations by Palestinian armed groups during the hostilities. No other relevant committees or investigatory bodies have been established by the national consensus government or the Hamas authorities in Gaza since the hostilities ended in August 2014.

In view of the failure of previous Palestinian inquiries to examine violations by armed groups, the continuing divisions between the national consensus government and the Hamas authorities in Gaza, and the failure to initiate investigations into Palestinian violations more than six months after the 2014 conflict, the prospects for credible domestic investigations on the Palestinian side do not look good. It appears that there is no official body capable of conducting investigations in accordance with international standards that would result in criminal prosecutions. Amnesty International has long noted the climate of impunity for abuses by Palestinian security forces in both the West Bank and Gaza Strip, and the authorities' failure to hold security officers accountable for violations including arbitrary detention, torture and other ill-treatment, and using unlawful force against protesters, even when ample documentation exists.¹⁶⁶ Arguably, the impunity for violations by Palestinian

¹⁶² ICRC Customary IHL Study, Rule 158.

¹⁶³ ICRC Customary IHL Study, Rule 157.

¹⁶⁴ Amnesty International, *Israel/Occupied Palestinian Territories: Amnesty International's assessment of Israeli and Palestinian investigations into Gaza conflict* (Index: MDE 15/022/2010), 27 September 2010 (<https://www.amnesty.org/en/documents/mde15/022/2010/en/>); *Israel/Occupied Palestinian Territories: Amnesty International's updated assessment of Israeli and Palestinian investigations into the Gaza conflict* (Index: MDE 15/018/2011), 18 March 2011 (<https://www.amnesty.org/en/documents/mde15/018/2011/en/>).

¹⁶⁵ WAFA, "Presidential Decree to Form Committee to Follow Up with ICC", 7 February 2015, <http://english.wafa.ps/index.php?action=detail&id=27790> (accessed 15 March 2015).

¹⁶⁶ For example, see Amnesty International, *Palestinian Authority: 'Shut up, we are the police': Use of*

armed groups has been even greater than for violations by the security forces.

In December 2014, Amnesty International wrote to the Palestinian Minister of Justice and other Palestinian officials, urging the Palestinian authorities to establish an independent commission of inquiry, composed of members known for their independence, integrity and strong commitment to human rights, in order to investigate alleged violations of international law during the hostilities. The organization has not received a response to its letter to the Palestinian authorities.

On 23 July 2014, the UN Human Rights Council established an independent commission of inquiry to investigate all violations of international law “in the Occupied Palestinian Territory, including East Jerusalem, particularly in the occupied Gaza Strip, in the context of the military operations conducted since 13 June 2014, whether before during or after”. The UN Independent Commission of Inquiry on the 2014 Gaza Conflict was due to submit a report of its investigation to the 28th session of the Human Rights Council in March 2015, but recently requested a deferral, and is now due to submit its report in June 2015.¹⁶⁷

On 13 November 2014, Israel announced that it would not co-operate with the “UNHRC investigative committee”.¹⁶⁸ The statement said that the “decision was made taking into account the council’s obsessive hostility towards Israel, the committee’s one-sided mandate and the publicly expressed anti-Israel positions of the committee’s chair.”¹⁶⁹ Despite the official Israeli position not to co-operate, a number of the victims’ families interviewed for this report told Amnesty International’s researchers that they had travelled to Geneva to give their testimonies before the Human Rights Council and the Commission of Inquiry. Separately, Amnesty International has also provided the Commission with information on both Israeli and Palestinian violations.

It is unclear whether the Palestinian national consensus government or the Hamas authorities have been co-operating with the Commission of Inquiry in its investigations into violations by Palestinian armed groups. The Commission has been unable to obtain access to Gaza either from the Israeli or the Egyptian borders. In a statement from 23 December 2014, the Commission stated, “In the absence of a response from Israel, the Commission of Inquiry is still actively seeking the cooperation of the Government of Egypt, which has indicated it is

excessive force by Palestinian Authority forces in the occupied West Bank (Index: MDE 21/006/2013), 23 September 2013 (<https://www.amnesty.org/en/documents/mde21/006/2013/en/>).

¹⁶⁷ UN Independent Commission of Inquiry on the 2014 Gaza Conflict, 9 March 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15670&LangID=E> (accessed 15 March 2015).

¹⁶⁸ Israel Ministry of Foreign Affairs, “Israel will not cooperate with UNHRC investigative committee”, 13 November 2014, <http://mfa.gov.il/MFA/PressRoom/2014/Pages/Israel-will-not-cooperate-with-UNHRC-investigative-committee-13-Nov-2014.aspx> (accessed 15 March 2015).

¹⁶⁹ After the Commission of Inquiry’s first chairperson, William Schabas, resigned on 3 February 2015, Israeli Prime Minister Benjamin Netanyahu called for the Commission’s report to be “shelved”. See Amnesty International, “Q&A on recent developments relating to the UN Independent Commission of Inquiry on the 2014 Gaza Conflict” (Index: MDE 15/0005/2015), 5 February 2015 (<https://www.amnesty.org/en/documents/mde15/0005/2015/en/>).

ready to facilitate the Commissioners' travel to Gaza as soon as the security situation permits travel there."¹⁷⁰ As this report was being finalized, the Commission of Inquiry still had not obtained physical access to Gaza or Israel. Nevertheless, its researchers had interviewed victims and witnesses on both sides, in hearings held in Amman and Geneva, and by phone or videoconference.

Israel has agreed to co-operate with a separate UN inquiry set up by UN Secretary-General Ban Ki-moon in November 2014 to investigate specific incidents of deaths, injuries and damage at UN premises in Gaza, as well as incidents where weapons were found on UN premises. However, Israel's decision not to co-operate with the wider UN Commission of Inquiry or to allow access to Gaza to researchers from Amnesty International and other international human rights organizations is highly regrettable, and gives the impression that Israel continues to oppose in-depth investigations of a number of its actions during Operation Protective Edge which appear to amount to war crimes. It has also made it more difficult to investigate and verify incidents in which there are competing claims by the different sides, such as the 28 July 2014 attack on the al-Shati refugee camp detailed above.

The pattern of impunity for serious violations and crimes, as well as evidence that both sides were committing further crimes during Operation Protective Edge, led Amnesty International to call for an International Criminal Court (ICC) investigation into crimes under international law committed in Israel and the OPT.¹⁷¹ Amnesty International welcomed Palestine's accession to the ICC, which will take effect on 1 April 2015, and its declaration accepting the Court's jurisdiction from 13 June 2014, while noting that the period covered by the declaration was unnecessarily narrow.¹⁷² Since the declaration submitted will not allow the Prosecutor to consider crimes committed prior to June 2014, in particular those committed during the 2008-2009 and November 2012 Israel/Gaza conflicts, Amnesty International continues to urge Palestine to reissue a declaration along the lines of its January 2009 one, which accepted the ICC's jurisdiction over crimes committed on "the territory of Palestine since 1 July 2002". The organization has also welcomed the ICC Prosecutor's announcement in January 2015 of a preliminary examination into the situation in Palestine, and urged all states to support the ICC's exercise of jurisdiction over Palestinian territory, and to oppose any retaliation or threats against the Palestinian authorities for acceding to the Rome Statute or any further moves relating to the ICC.

Given the failure of Palestinian and Israeli mechanisms to independently and impartially investigate serious violations to date and bring suspected perpetrators to justice in fair trials, Amnesty International also continues to urge all states to exercise universal jurisdiction over

¹⁷⁰ UN Independent Commission of Inquiry on the 2014 Gaza Conflict, "UN Commission of Inquiry on Gaza hears moving testimony, seeks access", 23 December 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15456&LangID=E> (accessed 15 March 2015).

¹⁷¹ Amnesty International, "Israel/OPT: International Criminal Court key to breaking cycle of injustice for war crimes", 1 August 2014 (<https://www.amnesty.org/en/articles/news/2014/08/israelopt-international-criminal-court-key-breaking-cycle-injustice-war-crimes/>).

¹⁷² Amnesty International, "Retaliation against Palestine's welcome accession to ICC must stop" (Index: MDE 15/001/2015), 7 January 2015 (<https://www.amnesty.org/en/documents/mde15/001/2015/en/>).

crimes under international law committed in the context of Operation Protective Edge. States should investigate, and, when appropriate admissible evidence exists, prosecute these crimes in proceedings adhering to fair trial standards in their national courts.

CONCLUSIONS AND RECOMMENDATIONS

Palestinian armed groups' flagrant disregard for international humanitarian law during the July/August 2014 conflict is evident from their routine firing of inherently indiscriminate rockets towards Israeli towns and cities, as well as the numerous statements indicating that specific attacks, including the mortar attack that killed four-year-old Daniel Tregerman, were direct attacks on civilians. Direct attacks on civilians, the use of prohibited weapons that are inherently indiscriminate, such as unguided rockets, and indiscriminate attacks that kill or injure civilians are all war crimes. The use of imprecise mortars to attack military objectives located in or near residential areas also constitutes an indiscriminate attack.

In addition, the failure of Palestinian armed groups to protect civilians within the Gaza Strip from the effects of hostilities endangered Palestinian civilians and civilian property, including by routinely locating military objectives and fighters in densely populated civilian neighbourhoods. Prohibited weapons such as unguided rockets can kill civilians on both sides of the Gaza/Israel border. In fact, if the projectile which landed in the al-Shati refugee camp on 28 July 2014 is confirmed to be a Palestinian rocket, it would mean that attacks launched by Palestinian armed groups during the 2014 conflict killed more civilians inside the Gaza Strip than in Israel.

The cases detailed in this report form a consistent pattern with similar violations by Palestinian armed groups over more than a decade, including during the conflicts in 2008-2009 and November 2012. They demonstrate what is, at best, a reckless disregard for the lives of civilians in Israel, as well as a consistent failure to take all feasible precautions to protect civilians in Gaza from the effects of attacks. In some cases, Palestinian armed groups deliberately targeted civilian population centres inside Israel with the intention of injuring and killing Israeli civilians. War crimes, and all crimes under international law, unequivocally attract the individual criminal responsibility of those who order or carry out such attacks.

Palestinian officials who attempt to justify rocket attacks and other violations regularly point to violations by Israeli forces, whose attacks as part of Operation Protective Edge had a devastating effect on Gaza. However, violations by one party cannot justify violations by its opponents.

It is this perverse logic, fostered by decades of impunity, that has helped perpetuate the cycle of violations for which civilians on all sides have been paying such a heavy price. The international community can help break this cycle by supporting international justice mechanisms. Palestine's signature of the Rome Statute and its declaration giving the International Criminal Court jurisdiction from June 2014 open an opportunity for justice and reparation for victims of crimes under international law in Israel and Gaza. That opportunity must be seized before another bloody round of hostilities begins and leaves new victims in its wake.

Whereas Israeli authorities – unlike Palestinian authorities in Gaza – have developed an

efficient system of civil defence that has helped limit the number of casualties on the Israeli side, they are not offering equal protection for all their citizens and residents. The complete lack of protection for Bedouin villages in the Negev/Naqab is one manifestation of the long-standing and systemic discrimination against Palestinian Bedouin citizens in the Negev/Naqab in general, and against the 70,000 residents of the unrecognized villages in particular. Civil protection, security of tenure, and adequate housing, infrastructure and services are long overdue in these communities. While the 2014 conflict and the complete lack of protection from rockets and mortars for the Bedouin population may have highlighted the glaring inequalities between Jewish and Bedouin communities in the Negev/Naqab, citizens living in the recognized and unrecognized Bedouin villages experience these inequities on a daily basis. It should not take a conflict, of any kind, for the Israeli authorities to rectify this situation.

TO THE PALESTINIAN AUTHORITIES

The Palestinian authorities should co-operate with independent and impartial international investigative mechanisms, judicial or non-judicial, including the Commission of Inquiry set up by the UN Human Rights Council in July 2014 and any follow-up mechanisms established by the Council, by offering complete access to relevant personnel, documents and other material. They should seek to ensure that the cases documented in this report, among others, are investigated impartially and independently and that, wherever there is sufficient admissible evidence, suspected perpetrators are brought to justice in proceedings that fully respect international fair trial standards. They should also:

- Denounce attacks targeting civilians and indiscriminate attacks and make clear that violations of international humanitarian law will not be tolerated;
- End the use of unguided rockets and ensure that imprecise weapons such as mortars are never used to attack objectives in the vicinity of civilians;
- Ensure that Hamas' fighters and members of Palestinian armed groups comply fully with the need to take all feasible measures to protect civilians in Gaza from the effects of attacks, including by distinguishing themselves from non-combatants to the maximum extent feasible, and refraining from storing munitions or firing rockets in or near civilian buildings;
- Co-operate with any investigation of the International Criminal Court, or national courts undertaking investigations under domestic universal jurisdiction laws;
- Make a new declaration under Article 12(3) of the Rome Statute of the ICC, recognizing the jurisdiction of the Court from July 2002;
- Work to construct public shelters and take other measures to improve civil defence and better protect civilians in the Gaza Strip in future conflicts, including by requesting international assistance and developing specific projects for this purpose, as one component of wider reconstruction efforts;
- Ensure that internal Palestinian disputes do not further delay reconstruction in the Gaza Strip.

TO THE ISRAELI AUTHORITIES

The Israeli authorities should co-operate with any independent and impartial international investigation, judicial or non-judicial, including the work of the Commission of Inquiry set up by the UN Human Rights Council in July 2014 and any follow-up mechanisms established by

the Council, by offering complete access to relevant personnel, documents and other material. They should seek to ensure that the cases documented in this report, among others, are investigated impartially and independently and that, wherever there is sufficient admissible evidence, any alleged perpetrator is brought to justice in proceedings that fully respect international fair trial standards. They should also:

- Allow Amnesty International and other human rights organizations, as well as UN-appointed investigators, including any follow-up mechanisms to the Commission of Inquiry and UN special rapporteurs, unrestricted access to Israel and the Occupied Palestinian Territories, including the Gaza Strip, to investigate these and other suspected violations of international law by all parties to the conflict;
- Co-operate with any investigation of the International Criminal Court, or national courts undertaking investigations under domestic universal jurisdiction laws;
- Rescind punitive measures taken following Palestine's signature of the Rome Statute, in particular the withholding of tax revenues due to the Palestinian authorities under the Oslo Accords, and refrain from imposing any additional punitive measures if the Palestinian authorities take further steps to pursue international justice for crimes under international law;
- Ensure that adequate protection from rocket and mortar attacks, including shelters and warning systems, is provided to all Israeli citizens and residents without discrimination, in particular by addressing the complete lack of protection at present in the recognized and unrecognized Bedouin villages in the Negev/Naqab;
- Impose a moratorium on demolitions of homes and other structures in Bedouin villages in the Negev/Naqab, grant official status to all villages which have not yet been recognized, and engage in genuine consultations with the communities to develop plans that address the housing and infrastructure problems, including the lack of civil defence systems and protected shelters;
- Completely lift the blockade on the Gaza Strip, including permitting the unrestricted transfer of construction materials into the Gaza Strip and the transfer of goods from Gaza to Israel and the West Bank, subject only to necessary and proportionate security checks, as an essential step towards addressing the shelter and protection needs of Gaza's 1.8 million civilians;
- Accede to the Rome Statute of the International Criminal Court and issue a declaration accepting the International Criminal Court's jurisdiction since 1 July 2002.

TO OTHER GOVERNMENTS

- All states should provide full support to the UN-mandated Commission of Inquiry and any follow-up mechanisms established by the Human Rights Council, and encourage the Israeli and Palestinian authorities to co-operate with them.
- All states, and international actors such as the European Union, should support the International Criminal Court's exercise of jurisdiction over Palestinian territory, encourage all parties to co-operate with the ICC Prosecutor, and oppose any retaliation or threats against the Palestinian authorities for acceding to the Rome Statute and submitting an Article 12(3) declaration accepting the Court's jurisdiction, or for any other moves to request that the ICC Prosecutor investigate crimes under international law. In addition, all states should press the Israeli authorities to rescind the punitive measures taken following Palestine's signature of the Rome Statute, in particular the withholding of tax revenues due to the Palestinian government.

- Individual states should start criminal investigations in national courts, exercising universal jurisdiction, wherever there is sufficient evidence of war crimes or other crimes under international law, and seek to arrest suspected perpetrators and bring them to justice in proceedings that fully respect international fair trial standards.
- All states should suspend the transfer to Palestinian armed groups and Israel of arms, munitions, weapons and military equipment, until substantive steps have been taken to achieve accountability for previous violations and effective mechanisms are in place to ensure that weapons and related equipment will not be used to commit serious violations of international human rights and humanitarian law. The suspension should include all indirect exports via other countries, the transfer of military components and technologies, and any brokering, financial or logistical activities that would facilitate such transfers.

UNLAWFUL AND DEADLY

ROCKET AND MORTAR ATTACKS BY PALESTINIAN ARMED GROUPS DURING THE 2014 GAZA/ISRAEL CONFLICT

During the Gaza/Israel conflict in July and August 2014, Palestinian armed groups fired thousands of rockets and mortars at Israel, in many cases directed towards Israeli civilians and civilian objects, in violation of international law. Six civilians were killed in Israel, and others wounded, while civilian property was damaged. The conduct of Palestinian armed groups, including firing from residential areas and using indiscriminate munitions that cannot be accurately directed at a military target, also endangered civilians in Gaza: on 28 July, 11 children and two adults were killed in Gaza's al-Shati refugee camp, apparently as a result of a rocket fired from Gaza.

This report details four cases investigated by Amnesty International of mortar and rocket attacks by Palestinian armed groups resulting in the death of five civilians in southern Israel and injuring others. It also analyses the attack on the al-Shati camp, and the conduct of Palestinian armed groups within the Gaza Strip in their operations against Israel.

Amnesty International is calling on the Palestinian authorities to ensure the cases documented here, among others, are investigated impartially and independently with a view to bringing suspected perpetrators to justice in proceedings that fully respect international fair trial standards. In addition, they must denounce attacks targeting civilians and indiscriminate attacks, and make clear that Palestinian armed groups should comply with international humanitarian law. We call on the Israeli authorities to allow international human rights investigators, including UN-appointed investigators and special rapporteurs, and researchers from international human rights organizations, unrestricted access to the Gaza Strip; and to provide adequate protection from rocket and mortar attacks to all Israeli citizens and residents without discrimination.

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