



ISRAEL/GAZA

OPERATION 'CAST LEAD':
22 DAYS OF DEATH AND
DESTRUCTION

AMNESTY
INTERNATIONAL



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Amnesty International Publications

First published in 2009 by
Amnesty International Publications
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

© Amnesty International Publications 2009

Index: MDE 15/015/2009
Original language: English
Printed by Amnesty International,
International Secretariat, United Kingdom

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Front cover photo: Destruction in Gaza City, Yarmouk Street, January 2009

Back cover photo: Palestinians run for safety at a UN school for refugees in Beit Lahiya, northern Gaza Strip, on 17 January 2009, during an Israeli strike using white phosphorus shells.

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SATELLITE - BASED GAZA DAMAGE ASSESSMENT OVERVIEW

Summary of Gaza Damages by Type:

1. Buildings Destroyed & Severely Damaged = 2,692



GAZA NORTH



GAZA



2. Impact Craters on Roads & Bridges = 220. Est. length of Paved and Unpaved Roads/Tracks damaged = 167km



MIDDLE AREA



3. Impact Craters on Open Ground/Cultivated Land = 714 Damaged / Destroyed Cultivated Land Area = 2,100 ha



KHAN YUNIS



4. Greenhouses Destroyed/Severely Damaged = 187. Est. Area of Greenhouses = 20ha



RAFAH



5. Demolition Zones: Est. area targeted by IDF bulldozers, tanks & phosphorus shelling for demolition = 2,242 ha



Satellite Image: WorldView-1 & QuickBird
Resolution: 2m (Reduced Resolution)
Imagery Dates: 01, 19, 10 & 9 January 2009
Copyright: GeoEye - Digital Globe (2008)
Damage Analysis: UNOSAT
GIS Data: UNHCR, OCHA, UNDP, WHO, UNOSAT
Projection: UTM Zone 38 North - WGS-84

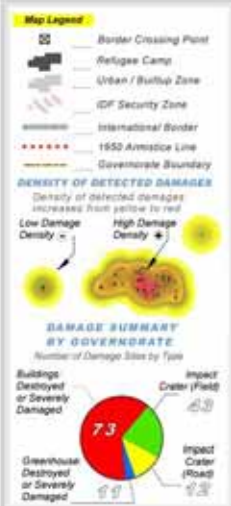
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MAP SUMMARY & ANALYSIS DESCRIPTION
This map presents a satellite-based damage assessment for the Gaza Strip following the January 2009 conflict. Damages have been summarized by the type of damage detected and by their estimated occurrence per government. Damages to buildings, infrastructure, roads and demolition areas have been identified by standard image interpretation methods using WorldView-1 satellite imagery acquired on 6, 19 and 19 January 2009, and QuickBird satellite imagery of 21 January 2009, at a national spatial resolution of 2 meters. Please note: Because of the reduced spatial resolution of the satellite imagery, the confidence level for damage identification within dense urban areas is significantly reduced. It is highly probable, therefore, that the damages identified in this map underestimate the actual building and infrastructure damages present on the ground at the time of satellite image acquisition.



19 February 2009
Version 1.2
UNOSAT-2009-000022

GAZA STRIP FRAME EXTENDED
41 DEGREES FROM NORTH

INTRODUCTION

“Until now we don’t understand why. We want peace; and we want an investigation; we want to know why me and my sisters have been orphaned. Why did they kill our parents, our family?”

Fathiya Mousa, whose parents and siblings were killed in an Israeli air strike while sitting in their yard (see Chapter 1.1.2).

At 11.30am on 27 December 2008, without warning, Israeli forces began a devastating bombing campaign on the Gaza Strip codenamed Operation “Cast Lead”. Its stated aim was to end rocket attacks into Israel by armed groups affiliated with Hamas and other Palestinian factions. By 18 January 2009, when unilateral ceasefires were announced by both Israel and Hamas, some 1,400 Palestinians had been killed, including some 300 children and hundreds of other unarmed civilians, and large areas of Gaza had been razed to the ground, leaving many thousands homeless and the already dire economy in ruins.

Much of the destruction was wanton and resulted from direct attacks on civilian objects as well as indiscriminate attacks that failed to distinguish between legitimate military targets and civilian objects. Such attacks violated fundamental provisions of international humanitarian law, notably the prohibition on direct attacks on civilians and civilian objects (the principle of distinction), the prohibition on indiscriminate or disproportionate attacks, and the prohibition on collective punishment.

Hundreds of civilians were killed in attacks carried out using high-precision weapons – air-delivered bombs and missiles, and tank shells. Others, including women and children, were shot at short range when posing no threat to the lives of the Israeli soldiers. Aerial bombardments launched from Israeli F-16 combat aircraft targeted and destroyed civilian homes without warning, killing and injuring scores of their inhabitants, often while they slept. Children playing on the roofs of their homes or in the street and other civilians going about their daily business, as well as medical staff attending the wounded were killed in broad daylight by Hellfire and other highly accurate missiles launched from helicopters and unmanned aerial vehicles (UAVs), or drones, and by precision projectiles fired from tanks.

Disturbing questions remain unanswered as to why such high-precision weapons, whose operators can see even small details of their targets and which can accurately strike even fast moving vehicles,¹ killed so many children and other civilians.

Scores of civilians were also killed and injured by less precise weapons, such as artillery

shells and mortars, and flechette tank shells, which can be accurately aimed but which disperse thousands of deadly metal darts at great velocity over a large area.

White phosphorus, a highly incendiary substance, was repeatedly fired indiscriminately over densely populated residential areas, killing and wounding civilians and destroying civilian property. It was often launched from artillery shells in air-burst mode, which aggravated the already devastating consequences of the attacks. Each shell ejected over a hundred felt wedges impregnated with highly incendiary white phosphorus, which rained down over houses and streets, igniting on exposure to oxygen and setting fire to people and property. Once their incendiary content had been discharged, the artillery shells often crashed into buildings causing further deaths and injuries. Repeated denials of the use of white phosphorus by Israeli officials during the conflict delayed or prevented appropriate treatment for people suffering agonizing burns. Some who died might otherwise have been saved.

Artillery in general and white phosphorus shells in particular should never be used in populated areas.² Yet in Gaza Israeli forces repeatedly fired them into densely populated residential areas, knowing that such imprecise weapons would kill and injure civilians. Such attacks were indiscriminate and as such unlawful under international law.

The scale and intensity of the attacks were unprecedented, even in the context of the increasingly lethal Israeli military campaigns in Gaza in previous years.³ More Palestinians were killed and more properties were destroyed in the 22-day military campaign than in any previous Israeli offensive.

Israeli forces could not conceivably have been unaware of the presence of civilians in locations which were repeatedly attacked, including with white phosphorus and other imprecise weapons, given that these areas were under close surveillance by Israeli drones.

Even though Israeli officials knew from the first days of Operation "Cast Lead" that civilians were killed and wounded in significant numbers, Israeli forces continued to employ the same tactics for the entire duration of the 22-day offensive, resulting in growing numbers of civilian casualties. The pattern of attacks and the resulting high number of civilian fatalities and casualties showed elements of reckless conduct, disregard for civilian lives and property and a consistent failure to distinguish between military targets and civilians and civilian objects.

Thousands of civilian homes, businesses and public buildings were destroyed. In some areas entire neighbourhoods were flattened and livestock killed. Much of the destruction was wanton and deliberate, and was carried out in a manner and circumstances which indicated that it could not be justified on grounds of military necessity. Rather, it was often the result of reckless and indiscriminate attacks, which were seemingly tolerated or even directly sanctioned up the chain of command, and which at times appeared intended to collectively punish local residents for the actions of armed groups.

Throughout Operation "Cast Lead" Israeli forces frequently obstructed access to medical care and humanitarian aid for those wounded and trapped. They prevented ambulances and medical staff from attending to the wounded and transporting them to hospital and in several cases targeted ambulance and rescue crews and others who were trying to evacuate the

wounded. As a result people who could have been saved died and others endured needless suffering and a worsening of their injuries. Children, women and elderly people were among those trapped and refused access to medical care and/or passage out of areas which had been taken over by Israeli forces. Medical and humanitarian vehicles and facilities were also destroyed or damaged as a result of both targeted and indiscriminate Israeli attacks.

In several cases Israeli soldiers also used civilians, including children, as "human shields", endangering their lives by forcing them to remain in or near houses which they took over and used as military positions. Some were forced to carry out dangerous tasks such as inspecting properties or objects suspected of being booby-trapped. Soldiers also took position and launched attacks from and around inhabited houses, exposing local residents to the danger of attacks or of being caught in the crossfire.

Israel and Egypt kept Gaza's borders sealed throughout Operation "Cast Lead" and its 1.5 million inhabitants could neither leave nor find a place in Gaza where their safety could be guaranteed. Unlike in southern Israel, where the Israeli authorities have built bomb shelters to protect local residents from rocket attacks by Palestinian armed groups, in Gaza there are no bomb shelters and none can be built because Israel has long forbidden the entry of construction material into Gaza.

Randomly placed telephone calls with recorded warning messages, radio broadcasts and leaflets dropped by the Israeli army all over Gaza telling people to leave their homes and neighbourhoods caused widespread panic but offered little protection. In some areas residents were trapped in their homes, hearing the Israeli army broadcasts warning people to leave but unable to do so because Israeli forces in the area were not allowing any movement and therefore anyone who went out risked coming under fire.⁴ Others who fled their homes were killed or injured when UN schools and other places where they had sought shelter came under Israeli attack.

In southern Israel civilians also continued to come under attack from rockets fired daily by Palestinian armed groups throughout the 22-day conflict. The armed wing of Hamas and other Palestinian armed groups launched several hundred rockets and mortars into southern Israel, killing three civilians and injuring dozens of others. Several civilian homes and other structures were damaged, some extensively. Six Israeli soldiers were also killed in Palestinian attacks.⁵

Mortars and so-called Qassam rockets, which are locally made in Gaza, and longer range Grad-type rockets smuggled into Gaza via the tunnels from Egypt, are unguided projectiles which cannot be directed at specific targets. Attacks using such rockets are indiscriminate and hence unlawful under international law. Though in most cases these rockets explode in empty areas, without causing casualties, each rocket is potentially lethal and the intensified barrage of such rockets throughout the 22 days of Operation "Cast Lead" caused panic among the civilian population of southern Israel. Thousands of families fled to other parts of the country and those who remained in their homes in the south had to run for cover every time the alarm sounded, warning of an incoming rocket.

Hamas and other Palestinian armed groups also violated international humanitarian law in their conduct within Gaza. They launched rockets and located military equipment and

positions near civilian homes, endangering the lives of the inhabitants by exposing them to the risk of Israeli attacks. They also used empty homes and properties as combat positions during armed confrontations with Israeli forces, exposing the inhabitants of nearby houses to the danger of attacks or of being caught in the crossfire.

However, contrary to repeated allegations by Israeli officials of the use of "human shields", Amnesty International found no evidence that Hamas or other Palestinian fighters directed the movement of civilians to shield military objectives from attacks. It found no evidence that Hamas or other armed groups forced residents to stay in or around buildings used by fighters, nor that fighters prevented residents from leaving buildings or areas which had been commandeered by militants.

Throughout Operation "Cast Lead", and for several weeks prior to start of the Operation, the Israeli army refused to allow into Gaza independent observers, journalists, international human rights monitors and humanitarian workers – effectively cutting off Gaza from the outside world and hindering independent monitoring and reporting of the conduct of its forces there.⁶ Even after the ceasefire was declared on 18 January, the Israeli army continued to deny access to Gaza to many human rights and humanitarian workers and journalists. Some continued to be refused entry into Gaza four months later.⁷

To date, five months after the end of Operation "Cast Lead", the Israeli authorities have failed to establish any independent and impartial investigation into the conduct of their forces and actively oppose any such investigations being established. They have refused to co-operate with and to grant access to the country to an international independent fact-finding mission set up by the UN Human Rights Council and headed by Justice Richard Goldstone,⁸ undermining its ability to fulfil its mission. They have also rejected the findings of a UN Board of Inquiry, which investigated nine attacks on UN facilities and personnel during Operation "Cast Lead".⁹

The Israeli authorities have rejected allegations of war crimes and other serious violations of international law committed by Israeli forces during Operation "Cast Lead" published by Amnesty International and numerous other human rights organizations and media – international, Israeli and Palestinian – claiming that Hamas prevents any independent investigations and forces people to make untrue allegations. However, such claims do not stand up to scrutiny. Amnesty International's delegates who visited Gaza during and after Operation "Cast Lead", as on many other occasions in recent years, were able to carry out their investigations unhindered and people often voiced criticisms of Hamas' conduct, including rocket attacks. While in Gaza Amnesty International delegates also investigated crimes and human rights abuses committed by Hamas forces and militias against fellow Palestinians, including deliberate killings, torture, abductions and arbitrary detention. The findings were published on 10 February 2009 in a report entitled: *Hamas' deadly campaign in the shadow of the war in Gaza*.¹⁰

As of 18 June 2009 the Israeli authorities had not responded to Amnesty International's repeated requests, first made in early February, for meetings to discuss its findings and concerns, nor to the requests for information concerning many of the cases mentioned in this report.

At the same time the Hamas de facto administration in Gaza has not only failed to investigate rocket attacks by its own and other armed groups, but has persisted in justifying such unlawful attacks.

Amnesty International believes that the deaths of so many unarmed civilians and the manner in which they came under attack demand a thorough, independent and impartial investigation into the conduct of all parties in the conflict, in order to establish the truth and so that those responsible for unlawful attacks against civilians and civilian property can be held accountable and that reparation can be ensured for the victims.

To this end, Amnesty International calls, on the one hand, on the international community to provide full support to the international independent fact-finding mission established by the UN Human Rights Council and, on the other, on the Israeli authorities and the Hamas de facto administration to co-operate with the mission, including by giving its members access to Israel as well as Gaza. The Israeli authorities need, in addition, to ensure impartial and thorough investigations, at a national level, of the evidence indicating that its forces committed serious violations of international human rights and humanitarian law during the conflict and to provide full reparations for the consequences of its unlawful acts and omissions. At the international level, individual states should exercise universal jurisdiction wherever there is sufficient evidence of war crimes or other crimes under international law on either side.

Finally, both the Israeli authorities and the Hamas de facto administration need to take a series of additional measures to prevent civilian deaths in the future. The Israeli military must, for instance, comply fully with the duty to take precautionary measures when carrying out attacks and publicly commit not to use artillery, white phosphorus and other indiscriminate weapons in densely populated areas. The Hamas de facto administration, for its part, must ensure that no armed group operating in areas under its control carries out unlawful rocket attacks against civilian population centres in Israel. (See Conclusions and Recommendations for a fuller set of Amnesty International's recommendations to the international community, the Israeli authorities and the Hamas de facto administration.)



Israeli artillery and mortar shells in Gaza (left); remains of a US-made Hellfire missile which killed three paramedics and a child (see Chapter 1.4.1) © AI

1. KILLINGS OF PALESTINIAN CIVILIANS BY ISRAELI FORCES

“I want aggressiveness – if there’s someone suspicious on the upper floor of a house, we’ll shell it. If we have suspicions about a house, we’ll take it down... There will be no hesitation... Nobody will deliberate – let the mistakes be over their lives, not ours.”

An Israeli company commander in a security briefing to soldiers during Operation “Cast Lead”.¹¹

Some 1,400 Palestinians were killed in attacks by Israeli forces during Operation “Cast Lead” between 27 December 2008 and 18 January 2009. Some 5,000 were injured, many maimed for life. Hundreds of those killed were unarmed civilians, including some 300 children, more than 115 women and some 85 men over the age of 50.¹² The figure is based on data collected by Amnesty International delegates in Gaza and on cases documented in detail by local NGOs and medical personnel in Gaza. According to Palestinian human rights NGOs two thirds of those killed were civilians. Amnesty International delegates who carried out research in Gaza in January-February 2009 did not have the time and resources to verify all the reported deaths, but investigated dozens of cases comprising more than 300 victims, more than half of them children and women, and gathered information from a wide range of sources. They concluded that an overall figure of some 1,400 fatalities is accurate and that, in addition to the children, women and men aged over 50, some 200 men aged less than 50 were unarmed civilians who took no part in the hostilities. In addition, some 240 police officers were killed in bombardment of police stations across the Gaza Strip in the first moments of Operation “Cast Lead” in the morning of 27 December 2008, including scores who were killed when the first Israeli air strikes targeted the police cadets’ graduation parade in the central police compound in Gaza City. Even though some of the policemen who were killed in these bombardments were also rank-and-file members of Hamas’ armed wing (in addition to being members of the police), many were not involved with armed groups and none were participating in hostilities when they were targeted and killed in the bombardments.¹³

The Israeli army has put the overall death toll at under 1,200 and maintains that most of those killed were not civilians.¹⁴ However, the Israeli authorities have not made available any

lists of those killed – neither of those whom they claim to have identified as combatants nor of civilians.

The Israeli army maintains that its forces operated in accordance with international law, only launching proportionate attacks against military objectives, and blames Hamas for any harm to Palestinian civilians. Amnesty International does not dispute that many of the attacks launched by Israeli forces during Operation "Cast Lead" targeted military objectives and did not cause disproportionate harm to uninvolved bystanders, and as such were in keeping with the requirements of international law. Members of Palestinian armed groups were killed during armed confrontations with Israeli ground forces, others were targeted while launching rockets or otherwise taking part in hostilities, and others still were targeted in other circumstances which did not violate the laws of armed conflict.

Amnesty International also does not contend that all the Palestinian civilian fatalities and casualties were the result of unlawful Israeli attacks. In some cases civilian bystanders may have been killed as a result of genuine human errors or weapons malfunctioning, or may have been the unintended victims of lawful attacks on military objectives – including in cases where Palestinian armed groups failed to take the necessary precautions or used tactics which exposed civilians to undue risk.

However, the killings of many of the hundreds of Palestinian civilians not involved in the conflict, including some 300 children, cannot simply be dismissed as "collateral damage" – incidental to otherwise lawful attacks – or as mistakes. Nor can they be attributed to panicked reactions of lone soldiers operating under fire.

The attacks that caused the greatest number of fatalities and injuries were carried out with long-range high-precision munitions fired from combat aircraft, helicopters and drones, or from tanks stationed up to several kilometres away – often against pre-selected targets, a process that would normally require approval from up the chain of command.

The victims of these attacks were not caught in the crossfire of battles between Palestinian militants and Israeli forces, nor were they shielding militants or other legitimate targets. Many were killed when their homes were bombed while they slept. Others were going about their daily activities in their homes, sitting in their yard, hanging the laundry on the roof when they were targeted in air strikes or tank shelling. Children were studying or playing in their bedrooms or on the roof, or outside their homes, when they were struck by missiles or tank shells. Others were in the street, walking or cycling. Paramedics and ambulances were repeatedly attacked while rescuing the wounded or recovering the dead.

Based on the evidence it gathered in the course of its field research and other information from a wide range of sources, including that made available by the Israeli authorities, Amnesty International believes that many Palestinian unarmed civilians were killed in attacks and as a result of practices which violated international humanitarian law, and that Israeli forces:

- failed to take all feasible precautions in the choice of means and methods of attack with a view to avoiding, or at least to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects;

- carried out disproportionate and indiscriminate attacks;
- carried out direct attacks on civilians and civilian objects, including medical personnel and vehicles;
- failed to allow timely access to and passage of medical and relief personnel and vehicles.

Israeli army and government authorities consistently dismissed concerns about Palestinian civilian casualties, showing little interest in investigating such cases and simply reiterating that responsibility for Palestinian civilian deaths lay with Hamas, rarely if ever offering any evidence about specific cases to substantiate their allegations.

For example, on 27 December 2008, the first day of Operation "Cast Lead", the Israeli army stated: *"The Hamas government leaders and operatives, which activate terror from within civilian population centers, are the sole bearers of responsibility for Israel's military response"*. On 19 January 2009, at the end of Operation "Cast Lead", it reiterated this self-justifying assertion: *"In using Palestinian civilians as human shields, Hamas is therefore responsible for the loss of civilian lives in the Gaza Strip"*.¹⁵

In an interview conducted after the end of Operation "Cast Lead", in response to the point that hundreds of children were killed by Israeli forces in the Gaza military campaign, the then Interior Minister, Meir Sheerit, said they *"had been held like hostages by the Hamas"*. When the journalist pointed out that this was not what the children's families said, the Minister dismissively replied: *"And you believe them? They were using them as human shields"*.¹⁶ In the same interview, in response to the point *"You imposed 100 times more casualties on Gaza than they did on you"*, Interior Minister Sheerit said: *"That's the idea of the operation; what do you think?"*¹⁷

Such positions, often reiterated by Israeli officials during and after Operation "Cast Lead", indicate a disregard for key provisions of international law, notably the rules of international humanitarian law on the conduct of hostilities, which are binding on all parties to a conflict whatever its causes and regardless of which side initiated the fighting. This approach may have also contributed to a culture of impunity among the troops, giving a message that unlawful attacks and other violations of international humanitarian law could be blamed on Hamas.

While fighting a guerrilla group based in a civilian population undoubtedly poses specific challenges – notably identifying and targeting fighters and weapons located in civilian buildings while minimizing harm to civilians – the rules of international humanitarian law take such challenges into account. Hence, the challenges of fighting irregular forces may never be used to justify indiscriminate or disproportionate attacks, the failure to adopt precautionary measures to protect civilians, or other serious violations.

The actions of Israeli forces in Gaza also demonstrated that they considered all individuals and institutions associated with Hamas to be legitimate targets. A spokesperson for the Israeli army told the BBC: *"Our definition is that anyone who is involved with terrorism within Hamas is a valid target. This ranges from the strictly military institutions and includes the*

political institutions that provide the logistical funding and human resources for the terrorist arm." Examples of this policy include the bombardment of the Palestinian Legislative Council (PLC), or parliament, various ministries and the offices of media organs which, while linked to Hamas, were not involved in the hostilities. Applying such an overly broad definition undermines the international humanitarian law principle of distinction between civilians and combatants. While political leaders involved in military strategy and planning may lose their immunity from attack for the duration of their participation in hostilities, Hamas members or supporters who were not taking a direct part in hostilities were civilians who should not have been made the object of attacks. Similarly, civilian buildings, such as ministries, the parliament, media outlets, and mosques cannot legitimately be made the object of attacks simply because they are affiliated with the Hamas de facto administration. (See Chapter 5 for an explanation of the definition of military objectives.)

The rules of international humanitarian law also impose limits on the tactics that guerrilla groups may lawfully resort to. The challenges which such groups face when they fight more powerful, better equipped and organized state armies cannot excuse serious violations of international humanitarian law.

Israeli soldiers who served in Gaza during Operation "Cast Lead" have spoken of a culture of impunity, with troops allowed, even encouraged, by their commanders to fire at "anything that moved", even if there was no danger to their lives.

Arik Dubnov, who was in the reconnaissance company of a reserve brigade of the Israeli army, said: *"From the first briefings before going in, it was clear that the army had changed its entire mindset. Instead of getting the usual precautions on not harming civilians, we were told about the need to make a very aggressive entry. We were told: 'any sign of danger, open up with massive fire'. In previous training, we prepared for fighting against guerrilla forces, but this time they told us that we would be facing Hamas fighting in full military formation - something that, obviously, did not happen. Some of us were very uncomfortable with these orders, others were pleased that finally the IDF [Israel Defense Forces] was taking off the kid gloves..."*¹⁸

Threatening graffiti such as "Death to the Arabs", "we came to annihilate kill you" or "a good Arab is a dead Arab", which was left by soldiers in houses which they had used, and often gratuitously vandalized, raise further concerns about the mindset of certain soldiers and their commanding officers, and raise questions as to whether, as well as carrying out reckless and indiscriminate attacks, soldiers at times also deliberately targeted civilians.



"Death to the Arabs": graffiti in Hebrew signed by the Givati Brigade of the IDF in the al-Sammouni family home.
© AI

At the end of January 2009, only days after the end of Operation "Cast Lead", the Israeli government pledged to provide aid and support to army officers facing legal suits abroad for alleged war crimes committed in Gaza, with then Prime Minister Ehud Olmert arguing that: *"The commanders and soldiers who were sent to Gaza need to know that they are safe from various tribunals"*.¹⁹

In April 2009, after soldiers' testimonies given at a graduates' seminar at the Rabin Pre-military Academy about unlawful use of forces against civilians and civilian property in Gaza were published in the Israeli media and on the internet, the army swiftly announced an internal probe.²⁰ The probe, which was concluded in a matter of days, rejected the allegations, dismissing them as unfounded rumours.²¹ However, the army provided no details about the probe and in the meantime more allegations of abuses have continued to emerge from both concerned and boastful soldiers.

The only investigations which the army has said it carried out are limited to a handful of cases and issues, mostly those which attracted international attention and criticism, and which were looked into by the UN Board of Inquiry in its investigations of attacks on UN facilities and personnel. The results of these internal army probes are contained in a briefing paper distributed by the army to journalists on 22 April 2009, and which states that *"All findings are to be used as background information to be attributed to the reporter only"*. It contains few details and mostly repeats claims made by the army and the authorities many times since the early days of Operation "Cast Lead", but offers no evidence to back up the allegations. It only mentions six specific incidents, three involving UN facilities or vehicles (Annex A) and three involving killings of civilians (Annex C), as well as several non-specified incidents involving medical facilities and ambulance crews (Annex B), general remarks about the use of white phosphorus (Annex D), and general remarks about destruction of property and damage to infrastructure (Annex E).²²

Even in these few cases the army probes were perfunctory and inadequate, seemingly aimed more at deflecting criticisms than at establishing the truth. The army made no attempt to interview victims and witnesses of the attacks, relying selectively, instead, on some soldiers' version of events, and predictably exonerated its soldiers of any wrongdoing and blamed the victims.²³ Even in the exceptional cases where the army admitted that civilians not involved in the hostilities were killed by its forces, it dismissed these as technical mistakes, failing to offer adequate explanations and leaving crucial questions unanswered. While unintended strikes against civilian bystanders may indeed be the result of technical malfunctions or other operational shortcomings or human errors, all available information indicates that Israeli forces often acted recklessly and launched deadly attacks against anyone who came within their sight without taking the necessary precautions to distinguish between civilians and military targets.

Amnesty International has asked the Israeli army for information about a series of specific attacks which resulted in the death of unarmed civilians, but to date it has received no response.

1.1 PRECISION STRIKES

The cases detailed in this section illustrate the main patterns of precision attacks which killed and injured hundreds of civilians: bombs and missiles launched from F-16 combat aircraft, helicopters and drones, and tank shelling, as well as close-range shooting of children and other unarmed civilians who posed no threat to the soldiers who shot them or to others. Such attacks failed to distinguish between civilians and combatants: they were at best reckless, and in some cases the evidence indicates that soldiers directly targeted unarmed civilians, including some who were trying to flee to safety.

1.1.1 AIR STRIKES AGAINST BUILDINGS

Israeli F-16 combat aircraft bombed several homes full of civilians, killing their inhabitants and in some cases neighbours and relatives who had taken shelter with them after being forced to flee their own homes.

F-16 combat aircraft drop their bombs from a high altitude and cannot directly see their targets. Their targets are either pre-selected and may not be monitored at the time of the attack, or may be observed by other surveillance mechanisms, usually by drones, which feed the coordinates of the targets and other information to the F-16s in real time. In either case, the munitions used are high-precision bombs of up to one ton, capable of carrying out pinpoint strikes.

"No, I don't sit in my plane and see some terrorist launching a Kassam rocket and then decide to fly over him. There's an entire system that supports us and works as our eyes and ears and intelligence, for every plane in the air. This system constantly produces more targets for us at whatever level of legitimacy. In any case I try to believe that these are targets at the highest possible level of legitimacy. Anyway, this system creates targets for us. I come to the squadron, get a target with a description and coordinates. Basically I just check that it isn't within the lines of our forces, check the photo of the house I'm supposed to attack, compare it with the situation on the ground and what I see with some other device I have, take off, press the button - and then the bomb directs itself to the target with a level of accuracy of one meter."²⁴

Randa Salha, a 34-year-old mother of seven, was killed with four of her children – one-year-old **Roula**, **Baha al-Din**, aged four, **Rana**, 12, and **Diya' al-Din**, 14, when Israeli forces bombed her home in the **Beit Lahia** Housing Project (*Mashru'a Beit Lahia*) in the middle of the night on **9 January 2009**. Randa's 22-year-old sister Fatma was also killed in the attack. Only women and children were in the house at the time: Randa and her seven children, her sister and her sister-in-law and her two children, who were staying there because they thought it would be safer than their own homes. Randa's husband, Fayez Salha, an employee of UNRWA (the United Nations Relief and Works Agency for Palestine Refugees in the Near East), was at work.

The family was seemingly alerted when a missile hit the roof, a new practice by Israeli forces that came to be known during Operation "Cast Lead" as the "knock on the roof" procedure. This involves firing a "teaser missile", seemingly containing little or no explosive, at the roof of a house in order to scare the inhabitants into fleeing their home. The building is then targeted a few minutes later with a large bomb launched from an F-16 aircraft.

Randa and Fayez's two surviving daughters, 10-year old Rouba and nine-year-old Rasha, told Amnesty International delegates that they and their mother, siblings, aunts and cousins had

scrambled to get out of the house. They had run out first and so survived, while their mother, siblings and one aunt had only managed to get to the bottom of the stairs when the house was bombed.



Salha family house, bombed on 9 January 2009 © AI

At the badly damaged house Amnesty International delegates found evidence of three

strikes and fragments of the munitions that hit the house: a small missile, apparently the one used as a “warning”, which went through the roof into the children’s library on the first floor; a Hellfire missile, which hit one of the children’s bedrooms, also on the first floor, seemingly after the family had already run downstairs; and a large bomb dropped by an F-16 aircraft, which slammed into the side of the house and exploded on the ground floor near the front door, destroying much of the inside of the house and its outer walls. It was this strike which killed the four children and their mother and aunt.

The home of the **Abu ‘Aisha** family, at the northern end of the **al-Shati (Beach) refugee camp in Gaza City** was bombed at 1.30am on **5 January 2009**. The strike killed ‘Amer Abu ‘Aisha, aged 45, his wife Naheel, 35, and three of their four children: Sayyed, aged 12, Muhammad, eight, and Ghaida, seven. A fourth child, 13-year-old daughter Dalal, the only survivor of the family, was staying with her aunt, in another house, and was thus spared.²⁵ The bomb exploded where the family was sleeping. Other members of the extended family, ‘Amer’s father and three brothers and their families, also lived in the house; there were 33 inhabitants in all. Some were injured by the collapsing walls.



Abu 'Aisha family house,
bombed on 5 January 2009
© AI

Saber, one of 'Amer's brothers who survived the attack, told Amnesty International: *"In 2006, the Israeli army telephoned me on my cell phone and told me to open the windows and move my family to the back of the house because they were going to bomb the building opposite my house where a Hamas police post was located. They then called again five minutes later and asked me to tell my neighbour to leave his house, which was nearer to*

the building they were going to bomb. Shortly afterwards they did indeed bomb the building opposite and our house was not affected. But this time they bombed my own house – I don't know why – and without warning. How could they do that? They know me, they have my number, since they called me before. I don't understand. Had they called us to warn us that they were going to bomb the house we would have left the house immediately. All my savings from the years when my brother and I used to work in Israel were spent building this house, but what is a house compared to human life? Had they warned us we would have left immediately and my brother and his wife and children would still be alive."

During Operation "Cast Lead" some people were telephoned by the Israeli army and told to leave their homes because they were going to be bombed after a few minutes.²⁶ According to Amnesty International's information, except for one case,²⁷ those who received such calls complied with the orders and evacuated their homes before they were bombed. However, members of at least six families whose relatives were killed when their homes were bombed told Amnesty International that they had not received any prior warnings. In all of these cases the houses were located in built-up areas which the residents presumed would be safer than

elsewhere in Gaza. In none of the cases is there any evidence to suggest that the houses or their inhabitants could have been considered military targets.

In the early morning of **6 January 2009**, just before 6am, 22 members of the **al-Daya** family, most of them children and women, were killed when their home was bombed by an F-16 aircraft. The large house, in the **al-Zaytoun district of Gaza City**, which contained seven apartments on five floors, was reduced to a pile of rubble. In the house lived Fayez al-Daya, 60, his wife Kawkab, 55, their seven sons, some married and with children of their own, and two unmarried daughters. At the time of the attack Israeli soldiers were present at the opposite end of the al-Zaytoun district, several kilometres away. The previous day, following rumours that the International Committee of the Red Cross (ICRC) had informed local residents that the Israeli army was going to bomb the house of a neighbour nearby, the family and other neighbours left their homes for fear that their homes would be damaged, given that the street is densely built up. However, residents reportedly contacted the ICRC, which denied having any information about any impending bombardments of targets in the street. Reassured, residents, including the al-Daya family, returned to their homes. Only one son, who lived on the top floor of the house, and his wife and seven children stayed with the relatives to whose house they had moved after the alert. In the evening of 5 January the family had dinner on the ground floor, listening to a battery-powered radio as there was no electricity. They then went to sleep, the sons and their wives and children in their apartments on the upper floors and the parents and the unmarried children on the ground floor. Before dawn the father and one of the sons, Mohammed, went to pray at the nearby mosque and at about 5.30am returned home as Israeli air strikes had once again resumed. The father entered the house shortly before the strike. Mohammed was trailing behind and was approaching the house when it was struck. His pregnant wife, Tazal, and their three daughters and one son, all aged less than seven, were killed, along with his parents, Fayez and Kawkab; his brother Iyad and his wife Rawda and their three daughters and three sons, all aged less than 10 years; his brother Ramez and his wife Safa and their six-month-old daughter and two-year-old son; his two sisters, Raghda and Sabrine, and his brother Radwan. When Amnesty International delegates first visited the family, on 20 January, nine of the 22 bodies were still under the rubble as the removal of the rubble had been made difficult by the location of the house, in a narrow and densely built-up street, and the lack of equipment to remove the large amount of rubble.

In a briefing issued by the Israeli army to journalists on 22 April 2009 the army states that the bombing of the al-Daya family home was "*a result of an operational error*" and that the intended target was the building next door, which the army claimed was a weapons storage facility. However, the alleged weapons storage facility is not known to have been attacked, even after the army had established that the attack on 6 January had mistakenly destroyed the wrong property. This explanation raises questions about the extent to which the Israeli army was taking necessary precautions, as it had not warned houses neighbouring the alleged weapons storage facility about the attack even though it could have been expected to cause secondary conflagrations which would have endangered the residents. This is the only such case known to Amnesty International about which the Israeli army has provided an explanation.

Many civilians were killed or injured in houses next to buildings directly targeted by Israeli forces without warning.

Five sisters from the **Ba'alusha family** – **Jawaher, Dina, Samar, Ikram** and **Tahrir**, aged four to 17 years – were crushed to death under the rubble of their home in **Jabalía**, in northern Gaza. The house collapsed when the Israeli army bombed the next door 'Imad 'Aqel Mosque at about 11.45pm on **29 December 2008**. The family had received no warning and were asleep. Two other sisters, 11-year-old Samah and 17-year-old Iman, who were sleeping in the same room were injured. The parents and two other siblings, a two-week-old baby girl and an 16-month-old boy, were sleeping in another room and mostly sustained light injuries. Other nearby houses were also damaged in the strike.

The Israeli army was quoted as saying that the mosque had been targeted because it was a "*known gathering place*" of Hamas members. It also said four gunmen were inside it at the time of the attack.²⁸ Amnesty International delegates visited the site but due to the extent of the destruction could not establish if the mosque had been used by armed groups to store weapons or for other purposes. Nor could it be confirmed whether Palestinian fighters were in the mosque at the time of the strike. The Israeli army for its part has not made available any evidence substantiating these claims, such as the name of the fighters who were reportedly in the mosque at the time. However, even if the Israeli army's allegations were accurate, this would not have relieved the army of its obligation to take precautions against harming civilians, including giving them effective warning.

When planning to target the mosque the army would have been aware that a strike on such a scale was virtually guaranteed to destroy the small house adjacent to it. The army could have warned the Ba'alusha family to leave their home.

The mother of the five dead girls, Samira Ba'alusha, told Amnesty International: "*We would not have stayed a minute if we had known that they were going to bomb by our house; we would have gone anywhere to protect the children.*"

1.1.2 AIR STRIKES TARGETING PEOPLE

Most strikes which targeted people were launched from drones, helicopters or F-16 aircraft. Drones, as well as being used for surveillance, are often armed with high-precision missiles, which in recent years have become the weapon of choice used by Israeli forces to assassinate wanted Palestinian militants. Such attacks have shown repeatedly how these missiles can strike their targets with extreme accuracy, including, for example, an individual travelling at speed on a motorcycle or in a car.

Surveillance drones have exceptionally good optics, allowing those watching to see details such as the type and colour of the items of clothing worn by those being observed, and what kind of objects they are carrying. For example, on 4 February 2009 an Israeli drone operator explained: "*We identified a terrorist that looked like an Israeli soldier. Our camera enabled us to see him very clearly. He was wearing a green parka jacket and he was walking around with a huge radio that looked exactly like an army radio. We saw that he was not wearing an army helmet, and he was ducking down with a weapon close to the wall, wearing black trousers. It was very clear he wasn't a soldier*".²⁹ According to the Israeli army, "*pilots can divert missiles already en route to their targets to avoid striking civilians*".³⁰ The questions arising from the cases detailed in this report and many others are why so many children and other individuals

who were visibly civilians were targeted in the first place and why these missiles were not diverted when it became clear that they were about to strike children and other civilians.³¹

Many of those killed in air strikes were children playing near their homes or on their roofs.

Isra' Qusay al-Habbash, 13, and her cousin **Shadha 'Abed al-Habbash**, 10, were both killed in a missile strike while playing on the roof of their home in the **al-Tuffah neighbourhood of Gaza City** on **4 January 2009** at around 3.30pm. Shadha's 14-year-old sister Jamila lost both her legs and her 16-year-old cousin Muhammad lost one leg.

Mahmud 'Ammar al-Habbash, aged 15, described what happened: *"We were playing on the roof terrace as usual and feeding the pigeons. I heard a friend calling me from the street and went over to the wall to see him. My brother and cousins came over too and we stood there chatting to the neighbour's son. Suddenly I looked towards Jabal Raiss and saw a flash. I yelled 'A rocket! A rocket!' and I fled and I felt as though I was flying in the air and then I fell and felt as though the air was being sucked up and after that the air around me was full of dust and smoke so I couldn't see anything. I rushed downstairs and heard my sister screaming in a room. She was dragging my brother Mohammed, who had fallen from the roof and was hanging on a window, so I helped her get him in. His injuries were terrible and his leg was cut off."*

Shadha's and Jamila's father told Amnesty International: *"When I heard the noise of an explosion I knew it was on the roof and I went quickly to my brother's house. I heard screaming and I found my nephew Mahmud and his sister pulling Mohammed, who had fallen off the roof. I asked about the other children and they said they were on the roof. I hurried up to the roof and I found my daughter and my brother's daughter – they had been blown up, their bodies were in pieces. The other children were all wounded and had limbs amputated. We called an ambulance, which took them to hospital: my daughter, my brother's daughter, and my daughter Jamila, both of whose legs were cut off, and Mohammed, whose leg was cut off – both of them are now in hospital in Saudi Arabia. What fault did the children commit? Why did they target such joy and innocence?"*

Three children from the **al-Astal** family – **Abderrabbo**, eight, his brother **Muhammad**, 11, and their cousin **Abd-al-Sattar**, also 11 – were killed by a missile launched by a drone on **2 January 2009** at 2pm in **al-Qarara**, north-east of Khan Yunis, in southern Gaza. The children had been collecting sugar cane and playing a few hundred metres from their home. Residents of houses across the road from where the children were killed told Amnesty International that the area was quiet except for a drone which was hovering overhead: *"There are drones flying overhead all the time so one doesn't think anything of it. Then all of a sudden it fired a missile which hit the children. We rushed over to them; they were in pieces and horribly burned; I will never forget the sight."*

The spot where the children were killed was on the corner of a dirt road and a main road, near a field but away from the vegetation. Hence it would have been apparent from the air that the three were children. An electricity pylon next to where the children were killed was peppered with the signature square holes created by the tiny cube-shaped shrapnel blasted from the missiles, and a small deep hole (about 10cm in diameter) was visible in the sand. After digging some three metres, Amnesty International delegates recovered parts of the

missile's circuit board, wires and other electrical components, as well as shrapnel from the missile casing.

Five-year-old **Lama Talal Hamdan**, her sister **Haya**, 12, and their brother **Isma'il**, eight, were killed near their home on **30 December 2008**. At about 8am, after breakfast, their mother sent the children as usual to carry the rubbish bags to the rubbish dump about 200m from their home in **Beit Hanoun**, northern Gaza. Moments later the family heard two massive explosions from F-16 bombardments, about half a minute apart, which made the whole quarter shake. The children's father told Amnesty International: *"We didn't realize that our children would be targeted and might be hit when we sent them out. We found the bodies buried beneath the dust thrown up by the bomb in the bare ground. The two girls died at once and Isma'il died the following day in hospital. I don't know of any fault they committed; they weren't carrying rockets, they were just children."*

At the site Amnesty International delegates found the bomb crater where the children were killed, next to the rubbish dump. A second crater about 40m away had hit the water mains and sewage drains, causing the water and sewage to mix and leaving residents without water.

It is possible that at some point previously Palestinian militants might have launched rockets or dug tunnels in the area near where the children were killed. However, because of its proximity to Israel the area is closely watched by the army, which is on the look-out for militants launching rockets or digging tunnels. Israeli surveillance drones hover over the area continuously. The children were in open area and it was broad daylight when they were attacked. It would have therefore been apparent to those keeping the area under surveillance that the three were children. If the bombardment relied on information provided by surveillance drones and for some reason the visibility was too poor to distinguish between militants and children, the strike should not have been carried out. If the site of the strike was not being monitored at the time of the strike, the attack would have been indiscriminate.

Families were targeted while sitting in their yards.

'Izzeddin Wahid Mousa, his wife **Samira**, their 14-year-old daughter **Nour** and their three sons, aged between 23 and 28, were killed in the evening of **14 January 2009** in a strike by a missile fired by a drone as they sat in their small yard in a densely built-up area of the **Sabra district of Gaza City**. A fifth child [m], who was also sitting in the yard, and seven other family members (one brother, three sisters, and the wife and two small children of one of the brothers), who were in a room next to the yard at the time, were all injured.

Fathiya, one of the injured daughters told Amnesty International: *"It was 8.30pm on 14 January; the area was quiet except of course there was always the noise of F-16s, Apaches, drones. There was no electricity. All the family were in the yard or the house listening to the news, negotiations in Egypt, martyrs, etc. The missile hit. Four were dead at once; my brother's body was all in pieces. We want to understand something: why did they hit our house? It is in a residential area. We are neither Hamas nor Fatah. We are all civilians. None of us did anything. My father was opposed to firing rockets against the Israelis; he wanted peace, and they killed him. We have nothing to do with the resistance. Until now we don't understand, we don't understand why. We want peace; and we want an investigation; we want to know why me and my sisters have been orphaned. Why did they kill our parents, our*

family? What life will we have now? Who will take care of us?"



Fathiya Mousa in the yard of her home where her family were killed © AI

The following morning, on **15 January 2009** at 9am, five members of the **Rmeilat** family, three children, their mother and grandmother, were killed by a missile fired at them by a drone while they sat outside their home in a Bedouin hamlet on the outskirts of **Beit Lahia** in northern Gaza. The victims were **Amal** Rmeilat, 29, her 60-year-old mother-in-law and her three children, **Sabreen**, 14, **Bara'**, 13 months, and a two-and-a-half-month-old baby girl, **Arij**. The children's father, Atta Hassan Hsein Rmeilat, told Amnesty International: "We had

been staying with our relatives in the Sheikh Zayed housing estate across the road from our home, because the large solid apartment buildings there felt safer than our home. [Their home is a flimsy structure in the middle of an orchard.] On the morning of 15 January I went back home to fetch milk formula for the baby and my mother and my wife followed me with the children. As I was in the house they sat in the orchard right outside the house. I heard a blast, and I came out of the house and found a scene of carnage. They were all killed instantly. Their bodies were scattered all around. I've lost my whole family, all my children, my wife, my mother. I have nothing left." At the location of the strike, Amnesty International delegates found the distinctive holes of the tiny cube-shaped metal shrapnel from the missiles usually fired by drones.

The area near the family's home had been struck twice in previous weeks. On one occasion an illuminating artillery shell landed in the orchard and on another occasion an F-16 bombed a nearby empty area, leaving two large craters where a tunnel had seemingly been in construction. Given the location, a semi-rural area, it is possible that Palestinian militants may have previously launched rockets from near the area, although Israeli surveillance of this border area is usually more intense than elsewhere. The children's father, Atta Rmeilat, told Amnesty International that he was not aware of rockets being launched from near the house at any time in the past when he had been at home. He could not know if it had ever occurred when he was at work. However, he stressed that on the morning when his family was killed no one was present anywhere near his orchard other than him and his family. The attack took place in broad daylight and in an open area with no vegetation impeding visibility from the air. Hence, it would have been apparent to those who launched the attacks that the targets were women and children.

1.1.3 TANK SHELLING – TARGETING “ANYTHING THAT MOVES”

From 3 January, when the Israeli ground incursion began, until the end of Operation “Cast Lead”, dozens of Israeli tanks took position in various locations inside the Gaza Strip, mostly in the east and north of Gaza. Tanks can fire high-explosive munitions, notably 120mm deep-penetration projectiles and guided shells with extreme precision, including while on the move and at moving targets, from a distance up to 3km from the target.³²

From these positions inside Gaza Israeli tanks often fired into Palestinian houses up to 2km or more away, killing scores of unarmed civilians, many of them children and women. In all the cases investigated by Amnesty International, the victims were neither caught in the crossfire of battles between soldiers and militants, nor were they shielding militants. The pattern is of single tank rounds, not a barrage, fired into homes whose occupants were going about their normal activities – a further indication that there were no battles raging nearby.

Ofer, a fighter in the Golani Brigade (an elite combat unit of the Israeli army) who was in the first wave of the ground offensive, said: *“The first time we went in, we were given orders to target our machine guns at every suspicious point that could be used to fire upon us. And we shot at anything that moved. The civilians in the area had already been told that we were coming in, so I don't feel bad for anyone hurt there. If they remained there, they must have been Hamas...”* (emphasis added)³³

One of the most shocking cases is that of the **al-Sammouni family**, who lost 31 members of their extended family in the **al-Zaytoun neighbourhood, in the south-east of Gaza City**. Most of those who perished were killed when one of the family homes, that of **Wa'el al-Sammouni**, was shelled, seemingly with tank rounds, on **5 January 2009**, a day after Israeli soldiers had ordered dozens of family members to move there from a nearby house belonging to the same extended family. In addition to those killed in the attack, several other family members who had been wounded in it died in the following days as they remained trapped in the house because the army did not allow ambulances to reach the area. Several family members bled to death over a three-day period while they waited in vain for someone to rescue them. Children lay for three days without food or water next to the bodies of their dead mother, siblings and other relatives.



Bodies of members of the al-Sammouni family being retrieved on 18 January 2009 © AI

Salah al-Sammouni told Amnesty International: *"Soldiers came to the area at night [on 3 January 2009] and at dawn on 4 January many relatives came to my house to stay with us. We thought that if we stayed in our house we would be all right. After a while soldiers came to the house and my father spoke to them in Hebrew; he told them: 'These are my children, my family, there are no terrorists here.' The soldiers told us to leave our house and go to Wa'el's house across the road and we obeyed. We were many relatives, about 100 altogether, many of them children. We stayed there all day and all night. We had hardly any food in the house and the children were hungry. Nobody could come to the area, not even ambulances. We were scared. The following morning (5 January) three of my cousins and I tried to go out of the house, to the walled garden to get some tomatoes and some wood to cook something. As soon as we got out of the door we were shelled. My cousins Muhammad and Hamdi were*

killed and Wa'el and I were injured and we retreated back into the house. Then the house was shelled again – at least two shells – from above. Some 25 people were killed and most of the others were injured. My little girl, Azza, was killed and my wife was injured. My mother Rahma was holding baby Mahmoud (six months old) and she was killed but she shielded the baby with her body and saved him. My father was killed. Wa'el's children, a boy and a girl, were both killed. Safa, the wife of my brother Iyad, was killed and Maha, the wife of my brother Hilmi, and their baby son Muhammad were all killed. Why did they shell the house after having put us all in there? We thought we'd all be killed; those of us who could ran out of the house. Many of us were injured; I was injured in the head and blood was pouring down my face as I ran. Nearby there were soldiers in the house of the Sawafiri family and they shouted to us to go back and shot at us, but we kept running. When we got to safety we raised the alarm, called the Red Cross to send an ambulance to the house to get the injured, but the army did not let any ambulances approach the area. We knew there were people still alive in the house because we called the mobile numbers and children answered; they were scared, with dead bodies all around them. Some of the injured died in the house waiting to be rescued. Only three days later could the Red Cross go in, but only on foot as the army did not let the ambulances approach; they found some children still alive and many others dead." (See further details in Chapter 1.4.2.)



Salah al-Sammouni and his nephew © AI

After the ICRC rescued the injured on 7 January the army bulldozed the house on top of the bodies of the dead, which the ICRC had had to leave behind because it had not been allowed to bring vehicles close enough to carry them away. When Amnesty International delegates

visited the area on 18 January, the first day of the ceasefire, surviving members of the family were digging and pulling out the bodies of their dead relatives, most of them children or elderly men and women, from under the rubble of the house, which had been subsequently brought down on top of the bodies by Israeli soldiers. In the partially burned-down house of Salah al-Sammouni, his brother Hilmi was beside himself with grief for the loss of his wife and baby son and so many relatives. He recounted the same events to Amnesty International, as did several other relatives – children and adults – interviewed separately.

Amal Zaki 'Eilewa, a 40-year-old mother of eight, was killed with four of her children in their home in the **Shaja'iya al-Jdeida neighbourhood of Gaza City** in the afternoon of **5 January 2009**. Amal was in the kitchen, on the first floor of the house, and her husband and children and nieces were in the kitchen and in the adjacent rooms. It was 4.05pm when a tank shell hit the house. It went through the north-east-facing bedroom window, smashed through the wall into the kitchen and exploded there, killing Amal, her 10-year-old daughter **Lana**, and three of her sons, **Mu'tasem**, **Mu'min** and **Isma'il**, aged 14, 12 and seven respectively. Her husband Heidar and their son Muntaser, 16, daughter Ghadir, 15, and niece Lama, 12, were injured. Ghadir and Lama were lying on the bedroom floor writing. As the tank shell tore into the bedroom it caused a wardrobe to fall on top of them, protecting them from the explosion.



The 'Eilewa children, who were killed on 5 January with their mother © private

At the house, Amnesty International delegates found fragments of a 120mm tank shell. The line of fire from the bedroom window through which the tank shell had been fired led to a location over 1km to the north-east, in the Jabal Raiss area, where Israeli tanks were stationed at the time of the attack. The tracks of the tanks were still visible when Amnesty International visited.³⁴

Three-year-old **Fawzia Fawaz Salah** and her four-year-old brother **Ahmad** were killed on **17 January 2009** at 2.15pm while they were playing in the family home in **Jabalialia**, in northern Gaza. Their two brothers, Faraj and Mohammed, aged seven and eight respectively, were both injured. The children had been playing in a room on the third floor of the family home when a tank shell smashed through the window and exploded in the room. The boys' father told Amnesty International: *"It was the last day of the war, and our home was full of relatives who had come to stay with us because this area was safe; we are right inside Jabalia town, far from the border. Everyone was downstairs, my wife was up here, washing the dishes in the back room and keeping an eye on the children who were playing here. How can anyone fire into civilian homes and kill innocent children like this?"*

In the afternoon of **16 January 2009** two tank shells struck a room in the fourth-floor apartment of Dr Ezzeddine **Abu al-'Aish**, killing three of his daughters, **Bisan**, 21, **Mayar**, 15, and **Aya**, 14, and his niece, **Nour**, 16, and seriously injured his daughter Shada, 16, his niece Ghaida, 13, and his brother. The first shell tore through the girls' room, where the five teenagers were studying. As Bisan rushed to the room a second shell struck, killing her.

Shortly after the strike, the girls' father, Dr Abu al-'Aish, a well-known fertility doctor who works in an Israeli hospital, was telephoned by an Israeli TV channel which had previously interviewed him about the Israeli military campaign in Gaza. Dr Abu al-'Aish's distress and desperate call for help on Israeli television moved people in Israel and abroad and focussed attention on the plight of civilians in Gaza.

A military expert who was part of the Amnesty International delegation in Gaza examined the fragments from the projectiles which had struck the house and established that they came from 120mm Israeli tank shells, consistent with the pattern of impact in the room. A direct line of fire was established to the location where the Israeli tanks had been stationed.

In spite of incontrovertible evidence that the attack had been launched by Israeli tanks, Israeli army sources alleged in the media that Dr Abu al-'Aish's house might have been struck by a Palestinian rocket and that Palestinian snipers had been firing from the house.³⁵

It took 19 days – until 4 February – for the Israeli army to admit that the strike had been from an Israeli tank. If strikes were properly recorded, as they should be, the army should have been able to verify promptly the strike on Dr Abu al-'Aish's house. In commenting on the case the army claimed that it had *"issued warnings to the residents of Shaja'iya by dropping thousands of leaflets as well as issuing warnings via Palestinian media outlets"*.³⁶ However, the location of Dr Abu al-'Aish's house, a crucial detail, is wrong. His house is in Jabalia, not in Shaja'iya.

In a BBC interview Israel's then Interior Minister, Meir Sheetrit, dismissed the strike on Dr Abu al-'Aish's house saying: *"If somebody has to be blamed it is the Hamas"*.³⁷ In its 22 April 2009 media briefing the Israeli army contended that *"IDF forces identified suspicious figures on the third floor of the building, raising suspicions that the figures were observing IDF forces in order to direct sniper fire from another building"*, that *"four women who were in the same house as the spotters were hit"* and that *"Israeli security forces urged Dr Abu al-'Aish to leave his house and the combat zone in the days prior to the incident, but he chose to remain in his house in spite of the clear risk"*. Crucially the army has provided no evidence whatsoever to substantiate its allegation that any gunmen or spotters were in Dr Abu al-'Aish's house, nor that it had urged Dr Abu al-'Aish to leave his house, a claim which Dr Abu al-'Aish rejects. In interviews with Israeli television in the days preceding the attack on his home, Dr Abu al-'Aish had expressed his fears because an Israeli tank was stationed near his home.

The home of a well-known Fatah political leader, Dr Jaber **Abu al-Naja**, a seventh-floor apartment in the Doctors' Tower (*Burj al-Attibba*) in the **Tal al-Hawa neighbourhood of Gaza City**, was struck in the afternoon of **8 January 2009** by a missile and a tank shell. Dr Abu al-Naja's wife, **Roqaya**, and his son-in-law, journalist **Ihab al-Wahidi**, were killed and his daughter, Ihsan, was seriously injured. Dr Abu al-Naja told Amnesty International: *"My wife,*

my daughter and her husband were on the balcony. They were sitting and he was standing, listening to the news on his mobile phone with an earpiece and discussing with his wife and my wife. I had just gone to the bathroom and my younger daughter, aged 17, and my 10-month-old grandson were also in the apartment. There was a first strike and I rushed to the balcony; I pulled my daughter Ihsan from under the collapsed wall further inside the apartment. Then there was a second strike. Everything was quiet."

1.2 CLOSE-RANGE SHOOTINGS

Most of the cases investigated by Amnesty International of close-range shootings involve individuals, including children and women, who were shot at as they were fleeing their homes in search of shelter. Others were going about their daily activities. The evidence indicates that none could have reasonably been perceived as a threat to the soldiers who shot them, and that there was no fighting going on in their vicinity when they were shot. Wilful killings of unarmed civilians are war crimes.

In the afternoon of **4 January 2009**, members of the **Abu Halima** family were shot by Israeli soldiers as they were taking to hospital relatives who had been injured in a devastating white phosphorus attack on their home in the **Sayafa** area, in the north-west of Gaza. **Matar** Abu Halima, 27, and his cousin **Muhammad-Hikmat** Abu Halima, 19, were both killed.

Matar's mother, Nabila Abu Halima, told Amnesty International: *"After Sabah's house was shelled I ran over there. She was on fire and was holding her baby girl Shahed, who was completely burned. Her husband and some of the children were dead and others were burning. Ambulances could not come because the area was surrounded by the Israeli army. We put some of the injured in a wagon tied to the tractor to take them to hospital. My nephew Muhammad (Sabah's son) picked up his wife, Ghada, who was burning all over her body, and I took her little girl, Farah, who was also on fire. My nephew Muhammad-Hikmat drove the tractor and my son Matar and my nephews 'Omar and 'Ali also came with us and took the body of baby Shahed and two other bodies. Sabah and the other wounded were put into a car; other relatives were also leaving. We drove toward the nearest hospital, Kamal 'Adwan hospital. As we got near the school, on the way to al-'Atatrah Square we saw Israeli soldiers and stopped, and suddenly, the soldiers shot at us. My son Matar and Muhammad-Hikmat were killed. The soldiers made us get out of the wagon. I ran away with 'Ali and 'Omar, who had also been shot and were injured. Muhammad, Ghada and Farah were allowed to go on but only on foot and the soldiers did not allow them to take the dead."*³⁸

The bodies remained there for 11 days as the Israeli army did not allow ambulances or anyone else to approach. 'Omar recounted the same event to Amnesty International. He said that he had been shot in the shoulder and that his cousins Matar and Muhammad-Hikmat had been shot in the chest and were too badly injured to move but that if someone had been allowed to reach them they might have been saved.

His brother Mahmoud said that they were finally able to recover and bury the bodies of their relatives on 15 January with help from the ICRC but that by then, stray dogs had eaten baby Shahed's legs. A photograph taken on a mobile phone by a family member shows baby Shahed's charred body, with only the bare bones remaining of her legs.

On **13 January 2009** a 47-year-old woman, **Rawhiya al-Najjar**, was shot in the head as she walked ahead of a group of women carrying a white flag near her home in the village of **Khuza'a**, near Khan Yunis, in the south of Gaza. Her 14-year-old daughter Heba, who was next to her when she was shot, told Amnesty International:

"The evening before, on 12 January, at about 11pm, there was shelling nearby and nobody dared to go out. The shelling caused fires and now we know it was white phosphorus which caused the fire but at the time we did not know this. Then after a while people called to say that one of the fires was very near our house and my mother went out to put out the fire; she took a white flag to show that she was not a threat if there were soldiers in the area. She put out the fire and then came back inside. There was more shelling and then towards morning we heard bulldozers. At dawn we went up on the roof with white flags so soldiers would know that there were people in the houses. My mother told the neighbours to do the same. Neighbours were screaming, some were fleeing and others were too scared to flee because people said there were special forces, in addition to the soldiers in uniform, in our areas. The army bulldozers were demolishing houses nearby and the women and children from those houses came over to us. By about 7.30am there were many assembled at our house. At about 8am we decided to leave and go to the centre of the village where we would be safe. My mother gave people white cloths to make flags and she also had a white flag and was at the front of the group. I was next to her, and Yasmine was next to her on the other side; Fatma was holding her child up. We walked a few steps and Yasmine said she saw soldiers in houses nearby. My mother turned her head to talk to the neighbours, telling them not to be afraid and at that moment she was shot in the head, on the left side, and the bullet went through and out from the right side. She fell, and Yasmine tried to help her she was also shot in the leg. Everybody ran back. Nobody could go to help my mother or to recover her body and she lay there on the road till the evening, when the soldiers left."

Yasmine al-Najjar, aged 23, told Amnesty International that she was standing next to Rawhiya when she was shot and had seen an Israeli soldier in a nearby house. She was also herself shot in her right leg, as she tried to rescue Rawhiya. She had fled her home that morning at about 6.30am, when Israeli army bulldozers started to demolish it, and had joined other women near Rawhiya's house.

Amnesty International received testimonies about the same incident from several other witnesses, including Nuha al-Najjar, the second wife of Rawhiya's husband, and two other neighbours, Iman al-Najjar and Zakia al-Najjar.³⁹ The organization's delegates also examined the house where the soldiers who shot Rawhiya were reportedly stationed, about 100m from the place where Rawhiya was shot. A hole had been blown into a wall of the house, a routine practice of Israeli soldiers when they take over Palestinian houses to be used as sniper positions. The hole faced the spot where Rawhiya was shot. A 16-year-old boy, Muhammad al-Najjar, told Amnesty International that he had been held by Israeli soldiers in that house and that he was blindfolded and could not see what the soldiers were doing but had heard them shooting, followed by the women screaming at the time when Rawhiya was shot (see his testimony in Chapter 2.1).

On **7 January 2009** three little girls and their grandmother were shot outside their home in the **'Izbet Abed Rabbo** area, east of **Jabalía**, northern Gaza. Two of the girls, **Amal** and **Souad Abed Rabbo**, aged two and seven respectively, were killed and their sister Samar, aged four,

and their grandmother Souad, aged 54, were injured. The girl's father, Khaled Abed Rabbo, a member of the Palestinian Authority (PA) security force in charge of liaison with the Israeli army,⁴⁰ told Amnesty International:



Souad Abed Rabbo recovering from her injuries © AI

"In the evening of 3 January 2009, when Israeli forces invaded Gaza, Israeli tanks took position in the area, including near my home. I lived in a five-storey house with my wife and our five children and my parents, seven of my brothers and their wives and children and my unmarried sisters. Several other relatives came to stay at my house when the Israeli forces came into the area and we sheltered on the ground floor because we know from past incursions that when there are Israeli forces around it is dangerous to go to the upper floors, because they could consider this a danger to them and shoot.

"On 7 January the shelling around the house increased and at 12.50pm we heard the soldiers calling with a megaphone in Arabic on everybody to leave their houses.

"My wife and our three daughters (Amal, two, Samar, four, and Souad, seven), my mother, (Souad, aged 54) and I went out. My mother was holding a white cloth tied to a broom handle and we were holding white cloths. Two of my brothers were also behind us. Outside there was a tank parked about 10m from the front door of our house, in our garden, which by then had been destroyed. Two other tanks were nearby. We stood still outside the door waiting for the soldiers to tell us or signal to us what to do next. Two soldiers stood outside the tank in our garden, eating chips and chocolate and ignored us. We stood still for several minutes. Then suddenly a soldier emerged from the middle of the tank. He was out of the tank from the waist up, and he took aim at us and shot many bullets. My daughter Amal had nine bullets in the chest area. She was holding a teddy bear against her chest and it got ripped by the bullets, my daughter Souad got some 11 or 12 bullets also in the chest area, and my daughter Samar got several bullets in the chest and tummy, and my mother was shot in the arm and buttock. We ran back into the house and stayed lying on the floor for two

hours. There was shooting outside. Then my father went out and the family followed and a soldier by the tank signalled to us to leave. He didn't say anything, and just motioned to us to go. As we were leaving the soldiers were shooting around us. We walked for almost 2km, carrying my daughters and my mother. When got to the intersection with Salaheddine Road (Duwar Zemmo) a man with a horse cart who I later learned was called Adham Meqbel stopped to help us, but soldiers shot and killed him and the horse. Amal and Souad were dead, and we took Samar to Kamal 'Adwan hospital, which was the nearest hospital, and she was later moved to the main Shifa hospital and then to Cairo and from there on to Belgium. She is completely paralyzed. She is the only daughter I have left and I have not seen her since that day. My wife is now with her in the hospital in Belgium."

Khaled's mother, 54-year-old Souad, recounted the same incident to Amnesty International delegates. A delegation of international medical doctors who visited Gaza in January on behalf of the Israeli NGO Physicians for Human Rights – Israel examined her and certified that her injuries were consistent with her description of having been shot in the left arm and buttock.

1.3 INDISCRIMINATE ATTACKS

1.3.1 WHITE PHOSPHORUS

"It's as though a fire is burning in my body. It's too much for me to bear. In spite of all the medicine they are giving me the pain is still so strong."

Sixteen-year-old Samia Salman Al-Manay'a, speaking to Amnesty International from a hospital bed 10 days after a white phosphorus shell landed on her house in the Jabalia refugee camp, northern Gaza on 10 January.

During Operation "Cast Lead" Israeli forces made extensive use of white phosphorus, often launched from 155mm artillery shells, in residential areas, causing death and injuries to civilians. Homes, schools, medical facilities and UN buildings – all civilian objects – took direct hits.

White phosphorus is a weapon intended primarily as an obscurant to provide cover for troop movements on the battlefield. It does so by releasing a thick white smoke as it burns. It can also be used to mark targets, to "trace" the path of bullets, and as an incendiary weapon.⁴¹ It can be dispersed by artillery shells, grenades, and rockets.

Israeli forces often air-burst white phosphorus artillery shells over residential areas of Gaza. Artillery shells are for use on conventional battlefields and are not capable of pinpoint targeting. White phosphorus artillery shells used in air-burst mode cover an even larger area, as each shell explodes in mid-air and ejects 116 sponge-like lumps of felt impregnated with white phosphorus, which ignite on contact with oxygen and cascade down over an area the size of a football pitch or larger, depending on the height at which it is burst and wind conditions.

In addition to the indiscriminate effect of air-bursting such a weapon, firing these shells as artillery exacerbates the likelihood that civilians will be endangered. Until Operation "Cast

Lead” the Israeli army had stopped firing artillery into Gaza after a gruesome incident on 8 November 2006 in which 18 members of a family were killed in their homes by a barrage of artillery shells that struck several houses in Beit Hanoun, seemingly by mistake.⁴²

White phosphorus is extremely dangerous for humans as it causes deep burns through muscle and down to the bone, continuing to burn until deprived of oxygen. It can contaminate other parts of the body, or even people treating the injuries, poisoning and irreparably damaging internal organs. Burn victims suffering a relatively small percentage of burns – 10 to 20 per cent – who would normally survive, often die if the burns are from white phosphorus.



Sabah Abu Halima in hospital showing the deep burns on her hand © AI

Sabah Abu Halima, a mother of 10, was gravely injured and lost her husband, four of her children and her daughter-in-law as a result of a devastating white phosphorus artillery attack on her family home. In the afternoon of **4 January 2009** she and her family were at home in the **Sayafa** area, in the north-west of Gaza, when three white phosphorus artillery shells crashed through the roof into her home. She told Amnesty International: *“Everything caught fire. My husband and four of my children burned alive in front of my eyes; my baby girl, Shahed, my only girl, melted in my arms. How can a mother have to see her children burn alive? I couldn’t save them, I couldn’t help them. I was on fire. Now I am still burning all over, I am in pain day and night; I am suffering terribly.”*

When Amnesty International delegates last visited Sabah in hospital, four weeks after the attack, she remained in a critical condition, with deep burns. Sabah's husband **Sa'adallah Matar Abu Halima** and four of their children – **Abderrahim**, 14, **Zeid**, 11, **Hamza**, 10, and 15-month-old **Shahed** – were all killed.

At the family home on 22 January 2009 Sabah's son, Mahmoud, showed Amnesty International the remains of the 155mm artillery white phosphorus carrier shells which had smashed into the second (top) floor of the house through the roof, causing fire and devastation. Pointing to the hole in the ceiling of the hallway, where his father and brothers were killed, he said: *"The shell came through there, exploded and cut my father's head open and set everything on fire."*

Mahmoud and his brother Ahmad said that three shells came through the roof into the house. In the area around the house Amnesty International found other fragments of 155mm artillery white phosphorus carrier shells, army tank tracks and trenches.⁴³ Sabah's sisters, Dailat and Nabila, who live next door, told Amnesty International that after Sabah's house was struck they ran to the house to help but could not put out the fire which engulfed Sabah and baby Shahed: *"We poured water on them but the fire continued to burn."*

Three of Sabah Abu Halima's other children, Yousef, 'Ali and 'Omar, were also injured, as were Sabah's daughter-in-law Ghada and her two-year-old daughter Farah. **Ghada**, who had sustained extensive burns over most of her body, died of her wounds on 29 March in a hospital in Egypt.

The danger of white phosphorus for the civilian population stems not just from its incendiary properties but also from the artillery shells themselves. The danger increases when they are used as they were in Gaza – air-burst at an altitude of thousands of feet. Having ejected the white phosphorus, the artillery shells continue on their trajectory, often crashing into homes or other buildings and harming anyone in the vicinity.

In **Khuza'a**, east of Khan Yunis, in the south of Gaza, Amnesty International delegates found white phosphorus artillery shells, some whole and some in fragments, in several homes in a densely populated residential area. In one home, 47-year-old **Hanan al-Najjar**, a mother of four, was killed by one such shell. She and her family had fled their home further east and were staying with relatives in a more built-up residential area, thinking that they would be safer there. On the evening of **10 January 2009** the area was shelled with white phosphorus. Hanan's husband and children told Amnesty International that one of the artillery shells, after having discharged the white phosphorus wedges, crashed through the roof of the house and travelled through two rooms and exploded in the hall. A large fragment hit Hanan in the chest, almost severing the upper part of her body. She was killed instantly, in front of her children and relatives, most of whom were injured. Her four children all sustained burns. Her seven-year-old daughter, Aya, also suffered a broken arm, and her cousin Ihsan, 26, lost her right eye.

Amnesty International delegates found the area around the house littered with artillery shells (white phosphorus carrier shells and illuminating rounds), several of which had struck residential homes, causing fire and destruction, mostly between 10 and 13 January. In one house a shell had crashed through the wall and landed on a young couple's bed, where a

baby had been sleeping only minutes earlier.

White phosphorus continued to be used until the last day of Operation "Cast Lead", on **17 January 2009**. On that day a white phosphorus artillery shell exploded at about 6am in an **UNRWA primary school in Beit Lahia**, where more than 1,500 people were sheltering. Two children, **Muhammad al-Ashqar** and his brother **Bilal**, aged five and seven respectively, were killed in the classroom where they were sleeping with their parents, siblings and some 30 other relatives, several of whom were injured. The children's mother, 28-year-old Anjud, sustained serious injuries to the head and other parts of the body. Her right hand had to be amputated. The children's 18-year-old cousin Mona lost her left leg in the attack.



Beit Lahia UNRWA school where the two children were killed in an Israeli artillery and white phosphorus attack on 17 January © AI

When Amnesty International delegates visited the school two days after the attack they found lumps of white phosphorus, which were still smouldering in the school yard, and fragments of 155mm white phosphorus artillery carrier shells. The classroom where the children were killed was burned down. Children who were sheltering at the school told Amnesty International delegates that they had been sleeping and when they woke up *"fireballs were raining down on the school and everybody was scared and screaming"*. Other fragments of white phosphorus artillery carrier shells were found in nearby areas. It is not clear how many white phosphorus artillery shells were fired over the school and surrounding areas, but photographs and mobile telephone footage show the sky dense with fireballs raining down on

the school.⁴⁴

As with all UNRWA facilities, the UN had made sure that the Israeli army had the school's coordinates in order to minimize the likelihood that it would be attacked in error. The UN Board of Inquiry which investigated the attack found that *"the undisputed cause was artillery firing by the IDF. It found that this firing caused two shell casings to fall on to the school, causing the deaths of two children, as well as serious and less serious injuries to members of families who had taken shelter in the compound. It found that the firing also caused a large number of burning white phosphorus-impregnated wedges to fall within the school compound, setting fire to a classroom and causing further damage to the school premises."*⁴⁵

Although using white phosphorus as an obscurant is not forbidden under international humanitarian law, air-bursting white phosphorus artillery shells over densely populated areas of Gaza violated the requirement to take necessary precautions to protect civilians. The cases investigated by Amnesty International of deaths and injuries to civilians caused by white phosphorus indicate that Israeli forces violated the prohibition on indiscriminate attack.

International humanitarian law prohibits the use of incendiary weapons against civilians. Of course, no weapon is supposed to be used against civilians, but this prohibition is recognition of the particular dangers and consequences of using weapons with incendiary properties in the vicinity of civilians. As an incendiary weapon, the use of white phosphorus, even against combatants, is restricted under customary international law. It should not be used against combatants unless weapons less likely to cause unnecessary suffering are not available.

Medical and humanitarian facilities affected

In the morning of **15 January 2009** several white phosphorus and high-explosive artillery shells struck the **UNRWA headquarters** in the centre of **Gaza City**, causing fires which destroyed dozens of tons of desperately needed humanitarian aid and medicines, as well as the workshops and warehouses. Several vehicles were also damaged. A UN worker and two civilians who had taken refuge in the compound were injured.⁴⁶ Some 700 civilians resident in nearby buildings had fled their homes and taken refuge in the UNRWA compound earlier that morning, when Israeli forces had intensified the shelling of the area. A worse disaster was only avoided thanks to the courage of UNRWA staff, who drove the vehicles out of the compound under fire and thus managed to prevent the vehicles full of fuel from catching fire and exploding. Jodie Clark, an UNRWA staff member, told Amnesty International:

"White phosphorus landed all over the area where the trucks and fuel tankers were parked, full of fuel. We tried to put out the fire but we couldn't; the fire extinguisher did not tame the fire at all. Some of the burning lumps white phosphorus were right underneath the vehicles; there was a great danger that it would cause the fuel tanker to explode. I dragged the burning lump from under the tanker with a stick and we tried to drive the vehicles out of the compound as fast as we could."

The UNRWA head of field operations in Gaza, John Ging, and other UNRWA staff who were in the compound during the attack, told Amnesty International that they had started to telephone officials in the Israeli army earlier that morning, as the area surrounding the UNRWA compound was being shelled by Israeli forces, and that when the first shells struck

the compound they had again called the Israeli army alerting them that the compound was under fire and calling for the attacks to cease immediately.⁴⁷

By the time the shelling of the compound stopped the fires could not be put out and the humanitarian aid and medicine could not be salvaged.

When Amnesty International delegates visited the compound four days after the attack, fires were still burning in some of the warehouses, notably those where cooking oil, flour and other highly combustible food items had been stored. The workshops and other warehouses were completely charred. Both the buildings and their contents were completely destroyed. At the compound Amnesty International delegates found fragments of several white phosphorus artillery shells, some with the serial markings still visible, and of at least one high-explosive artillery shell.⁴⁸



Fragments of a US-made M155 white phosphorus carrier artillery shell fired by Israeli forces into Gaza © AI

On the same day then Israeli Prime Minister Ehud Olmert was quoted as having said to the UN Secretary-General: *"I don't know if you know, but Hamas attacked from within the UNRWA compound"*. An Israeli army spokesperson also alleged that *"terrorists were shooting anti-tank rockets from the UNRWA compound towards IDF troops stationed nearby. In response, the IDF returned fire"*.⁴⁹ UNRWA vigorously denied the allegations, which were never substantiated and were subsequently dropped by the Israeli authorities.

The incident is among those mentioned in the Israeli army briefing of 22 April as having been the subject of an internal army probe, according to which the army claims that *"it appears that fragments of the smoke projectiles hit a warehouse located in the [UNRWA] headquarters"*. In reality it was not only fragments which hit the UNRWA compound.

Amnesty International researchers saw several white phosphorus artillery shells which had landed and exploded inside the compound, together with at least one high-explosive artillery shell. There is no reason to doubt the army's assurances that it did not deliberately target the UNRWA compound, as artillery is too imprecise to be used for pinpoint targeting. The issue at stake is the unlawful use of a weapon as imprecise as artillery and, moreover, carrying a substance as dangerous as white phosphorus, in densely populated residential areas. The UN Board of Inquiry which investigated the attack found that *"artillery firing by the IDF... caused three 155 mm, M107 High-Explosive shells to explode within the UNRWA Field Office compound and... at least eight shell casings from 155 mm M825A1 smoke projectiles containing white phosphorus, together with a large number of burning white phosphorus-impregnated wedges, to fall within the compound... [and that this] caused injuries to one UNRWA employee and to two unidentified persons who had taken shelter in the compound. The Board also found that very substantial damage was caused to buildings, vehicles and supplies"*.⁵⁰

The army's contention that *"these results could not be predicted"* lacks any credibility, as the army is fully aware of the danger of using artillery, which cannot be accurately targeted, in the midst of a densely populated residential area. Moreover, by the time this incident occurred, concerns had already been repeatedly raised with the Israeli authorities about the use of artillery in general, and white phosphorus in particular, in civilian residential areas.

Furthermore, even after the disastrous consequences of this and other attacks were documented, Israeli forces continued to launch such attacks in areas full of civilians. Two days later, on 17 January, white phosphorus artillery shells struck an UNRWA primary school in Beit Lahia where more than 1,500 civilians were sheltering, killing two children and injuring several others.

The Israeli army media briefing of 22 April mentions in passing that the *"Red Cross Pharmaceutical Storage facility"* (which actually belonged to the Palestinian Red Crescent Society (PRCS), and not to the ICRC) was hit during fighting between Israeli forces and Hamas militants but does not specify the types of attacks launched by Israeli forces in the area. Notably, the briefing fails to mention that white phosphorus and other shells also landed on the compound of the nearby PRCS-run al-Quds hospital, causing large fires and significant damage.

Al-Quds hospital, located in the Tal al-Hawa neighbour-hood in the centre of **Gaza City**, was repeatedly struck from morning to night on **15 January** by white phosphorus lumps, white phosphorus artillery shells and tank shells, eventually forcing medical staff and patients to evacuate the facility. At the time, some 50 patients were receiving treatment at the hospital and about 500 local residents had sought shelter there from the bombardments and shelling in the area.

The two top floors of the main hospital building and the administration building, adjacent to the hospital and connected to it by a bridge, were virtually destroyed by fire caused by white phosphorus. The hospital pharmacy, on the second floor, was struck by at least one tank shell. Attempts by doctors and other hospital personnel, including visiting foreign doctors, to put out the fire with buckets of water and fire extinguishers proved ineffective. Fire-fighters and civil defence vehicles could not reach the hospital for more than an hour.



Al-Quds hospital © AI

By the afternoon the hospital managed to arrange for co-ordination, via the ICRC, to evacuate the hundreds of civilians who had taken refuge in the hospital to an emergency UNRWA shelter. Meanwhile, hospital staff battled the localized fires which kept reigniting. In the evening, when more white phosphorus hit the hospital, the staff were forced to leave, taking the patients out in their beds and pushing the beds along the road away from the building. The patients were eventually transferred to al-Shifa hospital. A medicine store, in a small separate building around the corner from the hospital, was burned to the ground, seemingly having likewise been struck by white phosphorus. Two ambulances were burned and crushed near the hospital.

At the hospital, Amnesty International delegates found two 155mm white phosphorus shells. Doctors said that other such shells had fallen outside the hospital. Residents of the area showed Amnesty International other white phosphorus shells and fragments and white phosphorus lumps which had fallen in or near their homes.

The previous night there had been fighting between Israeli forces and Palestinian gunmen in the outskirts of Tal al-Hawa, some distance from the hospital. The director and staff of the hospital told Amnesty International that there were no gunmen in or outside the hospital. Even in the event that gunmen had been present in the area, attacking the area with white phosphorus munitions violated the prohibition on indiscriminate attacks. Hospitals are civilian objects and do not become military targets simply because of the presence of fighters in their vicinity.

Israel's denial of white phosphorus use – additional suffering for the victims

Israeli officials gave inconsistent statements about the use of white phosphorus. Initially they denied using white phosphorus. Later they stated that Israeli forces used munitions that are in accordance with international law, and then later announced that they were conducting an internal investigation.

The Israeli army spokesperson and officials at the highest level categorically denied the use of white phosphorus artillery for 10 days after the first reported case. The army Chief of Staff, Lieutenant-General Gabi Ashkenazi, told parliament on 13 January: *"The IDF operates weapons in accordance with international law. **We do not use phosphorus**, only 'smoke curtains' (smoke screens)." (Emphasis added)⁵¹*

Previously, on 7 January, an Israeli army spokesman told CNN: *"I can tell you with certainty **that white phosphorus is absolutely not being used**" (emphasis added).*⁵² On 8 January, confronted with photographs of 155mm white phosphorus artillery shells, easily recognizable by their light blue-green colour and serial markings, being loaded by Israeli soldiers at the firing points on the Israeli-Gaza border, an Israeli army spokeswoman told the UK newspaper *The Times*: *"This is what we call a quiet shell – it is empty, it has no explosives and **no white phosphorus**. There is nothing inside it."* (Emphasis added)⁵³

It is inconceivable that officials at all levels of the Israeli army did not know that white phosphorus had been used and was being used. Even in the unlikely event that they had not been informed, there was ample TV footage of white phosphorus artillery shells being air-bursting over Gaza.

The Israeli army and authorities continued to deny that their forces were using white phosphorus even when it was clear that civilians were being killed and injured by the substance and that victims were not receiving the necessary treatment because doctors in Gaza did not know what had caused the burns and how to treat them.

Doctors who treated the first casualties had no idea what they were facing. White phosphorus has not previously been used in Gaza and medical staff did not know the cause of the deep burns, nor how to treat the victims. Israel's failure to disclose, and then refusal to confirm, that its troops had used white phosphorus meant that doctors were unable to provide the right treatment. Patients died whose lives could have been saved had the cause of the burns been known and adequate treatment available.

In the burns unit of Gaza's main hospitals doctors told Amnesty International that initially they were puzzled by the fact that, instead of improving after the initial treatment, the burns continued to spread and deepen, causing increased pain and an inexplicable deterioration of the patients' condition.

The Israeli army is fully aware of the dangers of white phosphorus for human beings. Documents written during Operation "Cast Lead" by the office of the Israeli army Chief Medical Officer and Medical Field Operations Headquarters highlight some of the effects. A document signed by Colonel Dr Gil Hirschorn, head of trauma in the office of the army's Chief Medical Officer, states:

*"When the phosphorus comes in contact with living tissue it causes its damage by 'eating' away at it. Characteristics of a phosphorus wound are: chemical burns accompanied by extreme pain, damage to tissue... the phosphorus may seep into the body and damage internal organs. In the long run, kidney failure and the spread of infection are characteristic... In conclusion: a wound by an ordnance containing explosive phosphorus is inherently dangerous and has the potential to cause serious damage to tissue."*⁵⁴

Another document entitled "Exposure to White Phosphorus", prepared by Medical Field Operations Headquarters and sent from the Health Ministry, notes:

*"[M]ost of the data on phosphorus wounds stems from animal testing and accidents. Exposure to white phosphorus is highly poisonous, according to many lab experiments. Burns covering a small area of the body, 12-15 percent in lab animals and less than 10 percent in humans, may be lethal as a result of its effects, mostly on the liver, heart and kidneys."*⁵⁵

Artillery attacks in general and white phosphorus attacks in particular in densely populated areas were indiscriminate and as such unlawful. In addition to the deaths and injury caused, the situation was made worse by the Israeli authorities' failure to disclose, and in fact their repeated denial, that white phosphorus was being used by their forces. This delayed adequate treatment for the victims of such attacks and caused them additional suffering, and in some cases victims who could have been saved died.

1.3.2 MORTARS

A series of Israeli mortar strikes in the vicinity of a **UNRWA school** in the **Jabalia refugee camp** in the afternoon of **6 January 2009** killed more than **30 civilians**, including local residents and people who had fled their homes and were sheltering in the school.⁵⁶ Among the victims were 11 members of the **Deeb** family, including five children and four women, who were killed in their yard. Seven Palestinians, a school guard and six civilians who were sheltering in the school, were injured inside the school by shrapnel and flying debris and dozens of others were injured outside. The incident generated a controversy, partly as a result of erroneous media reports that the mortars had landed inside the school, and partly because the Israeli army and authorities wrongly claimed that Palestinian gunmen had fired rockets from inside the school and were subsequently killed there by Israeli strikes.⁵⁷

Mark Regev, an Israeli government's spokesman, told the BBC: *"If you take over – I presume with guns – a UN facility. If you hold the people there as hostages, you shoot out of that facility at Israeli soldiers in the neighbourhood, then you receive incoming fire - I think that's a war crime under international law."*⁵⁸

Colonel Olivier Rafawitz, an Israeli army spokesman, repeated the allegation and added that the UN school was seemingly booby-trapped,⁵⁹ and a Defence Ministry official said that *"booby-trapped bombs in the school had triggered secondary explosions that killed additional*

Palestinians there".⁶⁰

In fact there had been no Israeli strike on the UNRWA school, or any Palestinians firing rockets from inside the school, or any fatalities – neither of civilians nor of militants – inside the school. Regarding the two Palestinians named by the Israeli army as the members of the Hamas rocket-launching cells killed inside the school, 'Imad and Hassan Abu Askar, 'Imad turned out to be a 13-year-old schoolboy who was among those killed in the street outside the school, while the identity of the second was unclear given that there is no one named Hassan in the family.⁶¹

Later, the Israeli army offered several different accounts of the incident, dropping the claim that rockets had been fired from inside the school. On 11 January the Israeli daily *Haaretz* quoted a "preliminary investigation" conducted by the Paratrooper Brigade, whose troops were responsible for the area. According to this, militants had launched a Qassam rocket into Israel from within a yard adjacent to the courtyard of the UNRWA school and Israeli forces targeted them with mortar shells equipped with a Global Positioning System (GPS) which has an error margin of 30m; one of the three rounds fired by the Paratrooper Brigade slammed into the UNRWA building, while the other two rounds hit the adjacent yard and killed Hamas gunmen *"who probably belonged to the squad that fired the rockets"*.⁶²

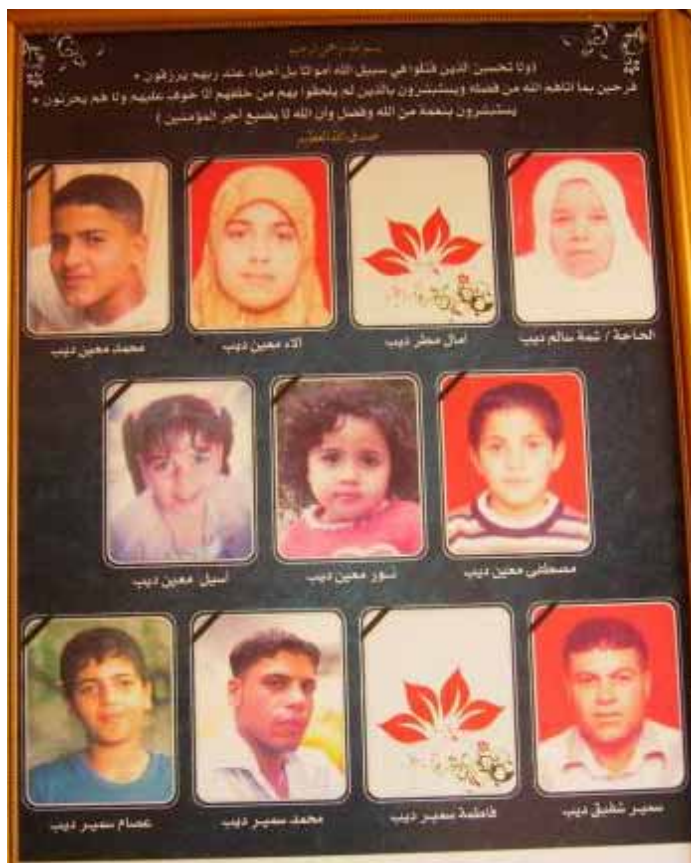
However, this version too was inaccurate, as there had been no Palestinian fire from a yard adjacent to the school, none of the Israeli mortars had hit the UNRWA school, and more than three mortars were fired into the area. When Amnesty International visited the area, the organization's munitions expert identified at least four mortar strikes in the street outside the school with additional strikes nearby.

In its media briefing of 22 April, the Israeli army offered yet another account, that *"Hamas operatives used a site located only 80 meters away from the school to launch mortar shells at IDF forces"*, that soldiers responded with *"minimal and proportionate retaliatory fire, using the most precise weapons available to them"* and that *"a cell of five terror operatives and seven civilians outside the school grounds were hit"*. However, the army has not provided the names of the 12 people (the five gunmen and seven civilians) it says were the only casualties of the attack.

This version, too, contains a number of inaccuracies and raises more questions than it answers. Firstly, contrary to the army's assertion that a total of 12 people were hit, at least 30 people, most of them civilians, were killed and dozens of others were injured. Secondly, mortars are notoriously imprecise. They offer a very low probability of striking a precise target, carry a high risk of off-target strikes and should never be used in a densely populated area. Thirdly, by using mortars in such a crowded area – much more crowded than usual because of the large number of civilians who had taken refuge at the UNRWA school – Israeli forces would have known that they were likely to kill and maim civilians.

Between 6 January and 22 April 2009 Israeli officials repeatedly spread inaccurate information. Israeli army spokesmen continued to claim that Hamas gunmen had fired rockets, and taken over and booby-trapped the UNRWA school where hundreds of civilians were sheltering. Such claims, if made in good faith, raise questions about the reliability and quality of the information which government and army officials receive from their forces in

the field, and about the lack of effective oversight and accountability mechanisms for the forces operating in the field.



The 11 members of the Deeb family killed near the UNRWA school:

Muhammad Mu'in, Ala' Mu'in, Amal Matar (no photo), Shamma Salem, Asil Mu'in, Nur Mu'in, Mustafa Mu'in, 'Isam Samir, Fatima Samir (no photo) and Samir Shafiq © AI

The UN Board of Inquiry investigated the attack and found that “the undisputed cause of the injuries to the UNRWA guard and the people who had taken shelter in the UNRWA Jabalia School, of the damage to the school, and of the deaths and injuries to

persons in the immediate vicinity of the school, was the firing of 120 mm mortar rounds by the IDF that landed on the road outside the school and at the compound of a family home nearby.”⁶³ The Board of Inquiry also found that “one of those killed outside the school was a 14-year-old boy who had taken shelter in the school with his family, and was outside the school gates when killed.”⁶⁴

1.3.3 FLECHETTES

Several civilians, including a child, a woman and a paramedic, were killed by flechettes – tiny lethal metal darts – during Operation “Cast Lead”. Tank shells packed with thousands of flechettes were used by Israeli forces on at least five occasions between 4 and 9 January, in the north of Gaza and in a village south of Gaza City.

Flechettes are 3.5cm-long steel darts, sharply pointed at the front, with four fins at the rear.

Between 5,000 and 8,000 of these darts are packed into shells which are generally fired from tanks. The shells explode in the air and scatter the flechettes in a conical pattern over an area about 300m by 100m.⁶⁵ Flechette rounds are designed to be used against massed infantry attacks or squads of troops in the open and obviously pose a very high risk to civilians when fired in densely populated civilian residential areas.

In 2001, *Jane's Defence Weekly* quoted an Israeli military source saying: "*The Israeli military obtained these weapons from the USA after the 1973 war and we have thousands of old shells in warehouses... The weapon is not regarded as reliable or effective and gunners have a difficult time in aiming this properly.*"⁶⁶

The first reported use of flechettes during Operation "Cast Lead" was in the morning of **4 January 2009**, when a flechette shell was fired at an ambulance in Beit Lahia, in northern Gaza. On the same day, at about 4pm, at least one flechette shell was fired at the home of **Abd al-Rahman Hilmi Abu Ashqar**, 51, who was killed inside his house, in Abu 'Obeida Street in **Beit Lahia**.



Flechettes © AI

The following morning, on **5 January 2009**, Israeli forces fired several flechette shells into the main road near the Abd al-Dayem family home in '**Izbet Beit Hanoun**, to the south-west of Beit Hanoun. Six civilians – two children, a woman and three men – were killed and several others were injured. Twelve-year-old **Arafat Abd al-Dayem** was killed instantly and 16-year-old **Islam Jaber Abd al-Dayem** was struck in the neck by flechettes. He was taken to hospital but died three days later. Mizar, his brother, was injured in the same attack and still has a flechette lodged in his back.

Nearby, 21-year-old **Wafa' Abu Jarad**, who was pregnant, her two-year-old son, her husband, her father and her brother-in-law were all injured by flechettes in the courtyard of their home. Wafa' died of her injuries two days later. Her husband, Mohammed, told Amnesty International: *"We had just had breakfast, then we had tea. We walked a bit in the garden, to the corner of the house, just a few metres from the front door. Then we heard shelling, followed by screaming. We turned back, towards the door. As we got to the door, we were hit. Wafa' fell on the steps. There was blood everywhere."*

X-rays show that Wafa's husband still has a flechette lodged in his back, which doctors cannot remove because it is so near his spinal cord they fear performing such an operation on him could result in him being paralysed.

In a Bedouin village in the north of Gaza, where flechette shells were fired on 9 January, Amnesty International delegates found flechettes embedded in the walls of houses and animal pens. Several women villagers told Amnesty International that after the shelling the alleys between the houses had been littered with flechettes. A woman said she had swept a bucket-full of flechettes from around her house. Several villagers were reportedly injured by the flechettes. One of them, Mahmoud Mohammed Selmi Abu Qleiq, was seriously wounded. His father showed Amnesty International delegates some of the flechettes which had been taken out of his body. He said:

"This is what they took out of my son's body. What are they? I have never seen anything like this before. My son's body was full of them; in the hospital here they took out several from his legs but he had more in his chest and they could not take them out here and he was taken to a hospital in Egypt. Now I don't know what is happening with him, if he will live."

Flechettes are not specifically prohibited under international humanitarian law, but their use in densely populated civilian areas in Gaza contributed to unlawful killings of and injuries to civilians.

Amnesty International has previously documented Israeli forces' use of flechette rounds in Gaza resulting in the killing of children.⁶⁷ The manner in which shells containing flechettes were used by Israeli forces in Gaza – fired in densely populated civilian areas – violates the international prohibition on indiscriminate attacks.

1.4 ATTACKING AND OBSTRUCTING MEDICAL WORKERS

1.4.1 MEDICAL WORKERS IN THE LINE OF FIRE

Clearly marked ambulances with flashing emergency lights and paramedics wearing recognizable fluorescent vests were repeatedly fired upon as they attempted to rescue the wounded and collect the dead. Such attacks intensified after Israeli ground forces took positions inside Gaza on 3 January 2009. Palestinian ambulance crews tried as best they could to reach as many of the wounded and the dead as possible. They and the international volunteers who accompanied some of the ambulance crews risked their lives every day to carry out their mission.

Three paramedics – **Anas Fadhel Na'im**, **Yaser Kamal Shbeir** and **Raf'at Abd al-'Al** – were killed in the early afternoon of **4 January** in **Gaza City** as they walked towards two wounded men. A 12-year-old boy, **Omar Ahmad al-Barade'e**, who was showing them where the wounded men were, was killed in the same strike. Yahia Hassan, the driver of one of the ambulances, told Amnesty International:

"It was about 3-3.30pm. We were called to pick up some injured men in an orchard near a house in the Dahdouh area in the south of Tal al-Hawa (Gaza City). We parked the two ambulances next to a house, left the lights flashing and me and the other driver waited by the ambulances while Anas, Yaser and Raf'at went to pick up the injured. A child was on the dirt road indicating to them where the injured men were lying. As our three colleagues got near the child, a missile hit and then another. They were all killed, our three colleagues and the child; pieces of their bodies flew about. Then missiles were fired near the ambulances and we could not go to pick up their bodies and had to drive away without them; we had to leave our dead colleagues behind. As we left more missiles or shells were fired towards our ambulances."



Yahia Hassan and Hazem al-Barrawi with fragments of the missiles which killed their colleagues and the remains of their stretchers © AI

Ambulance driver Hazem al-Barrawi said: *"As I drove away from the area my ambulance got stuck in the sand and again came under fire. I left the ambulance there and got into the other ambulance, with Yahia Hassan, and as we were driving away the shelling continued towards our ambulance."*

The mother of Omar Ahmad al-Barade'e told Amnesty International: *"After [the missile strike] we could not go near to where his body lay. The day after I crawled to the place and I found my child's body with no legs and I carried him to an ambulance a long way away because nobody could come near there. No ambulance could come to pick up the bodies; the ambulances that tried were fired at. After two days an ambulance finally came, accompanied by a foreign woman, and they took the bodies."*

At the spot where the paramedics and the child were killed, Amnesty International delegates found pieces of the paramedics' fluorescent vests strewn on the ground and stuck on trees, and remnants of at least two Hellfire missiles, which are usually launched from helicopters. The label read "guided missile, surface attack" and the USA is cited as the weapon's country of origin.⁶⁸

On **4 January**, another ambulance crew was attacked in **Beit Lahia**, in the north of Gaza. In mid-morning the ambulance had answered a call to rescue several young men, some injured and some dead, who were in Abu 'Obeida Street after an Israeli strike. The ambulance was staffed by driver Khaled Yousef Abu Sa'ada, 43, and two paramedics, 26-year-old Ala' Usama Sarhan and 34-year-old **Arafa Hani 'Abd al-Dayem**, a father of four and a science teacher by profession, who had been volunteering with the emergency services for eight years. Driver Khaled Yousef Abu Sa'ada told Amnesty International: *"We came about 15 minutes after the missile strike. None of those lying in the road had any weapon; they were just civilians, all young men; their bodies were scattered, not together. The paramedics picked up the first injured man and put him in the ambulance; then they picked up a second man and were transferring him from the stretcher to the ambulance when the shell hit the ambulance. Arafa fell, badly injured and the patient had his head and legs blown off."*



The head of the tank shell went straight through the ambulance and lodged in the engine. The shell was a flechette shell, which, on explosion, fired several thousand small but deadly metal darts over a large area. The two paramedics, Arafa and Ala', were both seriously wounded and Arafa died later that day. The driver was injured in the back of his head. The wall of the shop beside where the ambulance had been hit was full of flechettes.

Khaled Yousef Abu Sa'ada with the ambulance hit by a flechette shell which killed Arafa Hani 'Abd al-Dayem © AI

Dr 'Issa 'Abd al-Rahim Saleh, a 32-year-old doctor, was killed on **12 January** while attempting to rescue three residents of al-Banna Tower, a six-storey apartment building in a narrow street off Zarqa Street in **Jabalía**, northern Gaza. The building had been shelled at 4.10pm, killing a woman and gravely injuring her sister and a neighbour. Ambulances from several services arrived at the building shortly after, including the civil defence, the military medical services and the PRCS. Dr Saleh and a paramedic, Ahmad Abdel Bari Abu Foul, went up the stairs, both wearing red fluorescent medical jackets. They found two dead women, Ferial and Ayat Kamal al-Banna, and a wounded man, Mustapha Jum'a al-Basha. They placed him on the stretcher and began to descend the stairs. The stairs of the buildings were well lit by a window running down the length of the building. A shell or missile struck Dr Saleh, cutting off his head, which fell on paramedic Ahmad Abu Foul, who was a few steps below holding the other end of the stretcher. He was injured by shrapnel from the shell. The wounded man on the stretcher was killed.

"Situation Assessment. Rules of Engagement: Open fire also upon rescue" was handwritten on a note left by a soldier in a house taken over by Israeli forces during Operation "Cast Lead".⁶⁹

The Israeli army media briefing of 22 April, in the section on *"incidents involving shooting at medical facilities, buildings, vehicles, and crews"*, contends that *" Hamas systematically used medical facilities, vehicles and uniforms as cover for terrorist operations "*, but provides no evidence for even one such case. Amnesty International does not exclude the possibility that such cases may have occurred, but found no evidence during its on-the-ground investigation that such practices, if they did occur, were widespread. The army briefing asserts that its investigations *"showed the IDF forces at all levels were directed to take extra caution to avoid harming medical crews and facilities, and in many cases ceased to operate when there was a medical vehicle or medical staff present in their area of operation"*. Crucially, the army failed to provide any information or explanation of the many cases, such as those in this report, of ambulance crew members killed and injured by IDF fire. The briefing also does not provide any explanation for the many cases where Israeli soldiers deliberately blocked medical assistance to the wounded and prevented the removal of bodies.

The evidence indicates that attacks on ambulance crews and others who were attempting to evacuate the wounded were deliberate and recurred throughout Operation "Cast Lead" and throughout the Gaza Strip. As such these attacks violated international humanitarian law, which, in addition to prohibiting the targeting of civilians in general, affords special protection to the sick and wounded and to medical personnel and facilities. More specifically, intentionally directing attacks against medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions is a war crime.

1.4.2 ACCESS TO MEDICAL CARE HINDERED FOR THE WOUNDED

After Israeli ground forces took positions inside Gaza on 3 January 2009, they routinely prevented ambulances and other vehicles from reaching the wounded or from collecting bodies anywhere near their positions. Requests by the Palestinian ambulance services to be allowed passage to rescue the wounded and the dead in any area in Gaza which had been taken over by Israeli forces were consistently denied by the Israeli army. The ICRC estimated

that the average time required to evacuate injured people was between two and 10 hours. In some cases, it was several days. For example, on 6 January the UN Office for the Coordination of Humanitarian Affairs (OCHA) reported: *"Over the last 24 hours, the Palestinian Red Crescent Society (PRCS) has not received Israeli approval for any of its coordination requests to reach those killed or injured. Nonetheless they have recovered 140 wounded and 22 dead"*.⁷⁰

As a result, many of the wounded, who were never more than 15 minutes away from a hospital, died needlessly. Bodies remained decomposing for days. Scores could not be recovered until after the ceasefire.

On **7 January**, three PRCS ambulances escorted by an ICRC vehicle were finally allowed to evacuate 14 wounded civilians, most of them children, from a house in the **al-Zaytoun area, in the south-east of Gaza City**. All were members of the **al-Sammouni family** and had been trapped in the house since 4 January. After the house was shelled by Israeli forces on 5 January, tens of family members were dead or injured. All the surviving children and elderly people were wounded and had no food or water. The children lay next to the bodies of their dead mother and relatives. Israeli forces did not allow the ambulances to approach the house so the paramedics had to walk 1.5km and transport the wounded, along with three of the bodies, on a donkey cart from the house to the ambulances. The rescue team had to leave tens of bodies behind as they had no means of carrying them away.

In a statement on 8 January 2009 the ICRC said: *"The ICRC/PRCS team found four small children next to their dead mothers in one of the houses. They were too weak to stand up on their own. One man was also found alive, too weak to stand up. In all there were at least 12 corpses lying on mattresses.*

"In another house, the ICRC/PRCS rescue team found 15 other survivors of this attack including several wounded. In yet another house, they found an additional three corpses. Israeli soldiers posted at a military position some 80 meters away from this house ordered the rescue team to leave the area which they refused to do. There were several other positions of the Israel Defense Forces nearby as well as two tanks.

"This is a shocking incident," said Pierre Wettach, the ICRC's head of delegation for Israel and the Occupied Palestinian Territories. 'The Israeli military must have been aware of the situation but did not assist the wounded. Neither did they make it possible for us or the Palestine Red Crescent to assist the wounded.'

*"Large earth walls erected by the Israeli army had made it impossible to bring ambulances into the neighbourhood. Therefore, the children and the wounded had to be taken to the ambulances on a donkey cart. In total, the ICRC/PRCS rescue team evacuated 18 wounded and 12 others who were extremely exhausted. Two corpses were also evacuated... The ICRC was informed that there are more wounded sheltering in other destroyed houses in this neighbourhood. It demands that the Israeli military grant it and PRCS ambulances safe passage and access immediately to search for any other wounded. Until now, the ICRC has still not received confirmation from the Israeli authorities that this will be allowed."*⁷¹

The ICRC had been seeking access to the area since 4 January when members of the al-Sammouni family had found themselves trapped and under fire. Members of the family told Amnesty International that from the morning of 4 January the area came under fire as Israeli ground forces moved in with tanks and backed by helicopters. Soldiers took over several houses, initially keeping the families as "human shields" while they used the houses as

military positions. They later ordered the residents to move to the house of relatives across the road.

The Israeli army did not allow access to any medical team to the area for the rest of the duration of Operation "Cast Lead". On the morning of 18 January, after Israel declared a ceasefire and pulled out its forces, Amnesty International delegates went to the al-Sammouni area and witnessed medical rescue teams extracting bodies from the rubble. The house where the ICRC/PRCS medics had found the injured civilians and 22 bodies on 7 January had been bulldozed on top of the bodies, another act of wanton destruction. By 18 January, when they could finally be extracted from the rubble, the bodies were in a state of decomposition.

Muhammad **Shurrab**, aged 68, and his two sons, **Ibrahim**, 18, and **Kassab**, 28, were injured shortly after 2pm in the afternoon of **16 January** when Israeli soldiers shot at their vehicle as they were returning from the family farm in the east of **Khan Yunis** to their home inside the city. Their vehicle came under fire from Israeli soldiers stationed in a building along the road. The car was fired upon with a volley of more than 20 bullets during the daily three-hour ceasefire (known as the "humanitarian corridor" and announced by the Israeli authorities on 7 January). Kassab and Ibrahim were seriously injured in the chest and leg respectively, while their father sustained a light shrapnel injury to his hand.

Repeated calls for help by Muhammad Shurrab to the soldiers in the nearby building remained unanswered. Muhammad Shurrab telephoned the emergency ambulance services but no ambulance was allowed to come to their rescue and they were not allowed to move. Kassab died shortly after. At 7.30pm the Israeli NGO Physicians for Human Rights – Israel contacted the Israeli army but was told that the rescue could not go ahead. At about 1.15am – almost 12 hours after the three men had been wounded – the NGO again contacted the father, who reported that his second son, Ibrahim, had died shortly before, after losing a large quantity of blood. His injury was not very serious but he bled to death.

Having been forced to watch his two sons bleed to death, and himself injured, Muhammad had to spend the rest of the night and the following morning in his car, unable to move and unable to receive any help. An ambulance was eventually allowed to rescue Muhammad and collect the bodies of his two sons at 12pm the following day – some 22 hours after they had been shot. Throughout this time the soldiers stationed in the nearby house neither assisted the wounded men nor allowed them to receive assistance or to move. They failed to respond to repeated pleas for help and communicated with them with threats to shoot them if they moved.

Faris Tal'at Hammouda, aged three, and his brother **Muhammad**, 15, died of their wounds on **11 January 2009** after their home, in the **Shaikh 'Ajlin** area, south of Gaza City, was struck by Israeli tank shells and ambulances were not allowed to rescue them. Their parents, Tal'at As'ad Sa'adi Hammouda, aged 53, a director in the Ministry of Social Affairs, and his wife, Intisar Abd al-Wahhab Ibrahim Hammouda, 38, could do nothing and watched them die.

Intisar told Amnesty International: *"We were sleeping and after midnight on Sunday morning 11 January Israeli tanks came into our area and there was heavy tank fire. Around 2am the tank fire hit a neighbouring house and scattered shrapnel on the house in the room where we were sheltering so we fled to the passage between the rooms. Then the shells came into one*

of the rooms and the shrapnel was falling continuously and the electricity was cut. Muhammad, my husband's son aged 15, tried to help me light a lamp so that I could see my son Faris, who was in my arms, when another shell fell on the house and injured me and Muhammad and my son Faris, aged three. We stayed in the house until 5am as the ambulance couldn't get to us. My husband called the Red Cross and implored them and the civil defence to come but they could not because it was so dangerous and the Red Cross told us that they had been told that there was no entry into the area while the Israeli forces were there. Muhammad died at about 5am from his wound and the heavy loss of blood. I was badly injured all over my body, in my left side, abdomen, chest, legs, and hands, and I couldn't move until the ambulance came at 7am after the army had left the area. Faris also died. He was my only son, after 21 years of marriage."

The Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (Fourth Geneva Convention) obliges states to respect and protect the wounded, to allow the removal from besieged areas of the wounded or sick, and the passage of medical personnel to such areas. The deliberate obstruction of medical personnel to prevent the wounded receiving medical attention may constitute "*wilfully causing great suffering or serious injury to body or health*", a grave breach of the Fourth Geneva Convention, and a war crime.

2. NO SAFE HAVEN

“Fireballs were raining down on the school and everybody was scared and screaming.”

A child sheltering in the UNRWA school in Beit Lahia where white phosphorus artillery shelling killed two children on 17 January 2009.

During Operation “Cast Lead”, Gaza’s population of 1.5 million, most of them children, could neither leave Gaza – as the borders were sealed – nor find shelter where they could be guaranteed safety. There are no bomb shelters and none can be built, as cement and other construction materials are on the list of goods which Israel does not allow into Gaza.

Although tens of thousands of people did leave their homes, most could not do so because they had nowhere to go. Others stayed to protect their property, fearing that if they left their homes empty they would soon be destroyed by the army or used by armed militants and then destroyed by the army.

In any case, the pattern of Israeli attacks led Palestinians to believe that no area of Gaza could be considered safe. On the first day of Operation “Cast Lead”, mostly in the first hour of the offensive, Israeli forces bombed more than 240 targets all over Gaza, most of them in densely populated residential areas. This resulted in an unprecedented death toll for a single day. The bombardments began without warning at around 11.30am, a busy time, when the streets were full of civilians, including school children leaving school at the end of the morning shift and those going to school for the second shift.

The fear that empty homes would be more at risk of being destroyed and news that civilians were killed while fleeing or in the places where they had sought refuge, in their relatives’ homes and even in UN shelters, added to the general sense of insecurity and the feeling that nowhere was safe.

Some Palestinian families found themselves in particular danger when Israeli forces used them as “human shields”. Many more were given warnings to leave their homes and faced a near impossible judgment about whether it would be safer to stay or go. The Israeli authorities claimed that they gave such warnings to Gazans to leave their homes in an effort to protect civilian lives, but the nature of these warnings is difficult to reconcile with such an intention.

The situation was exacerbated by the inadequacy of the humanitarian assistance reaching Gazans during Operation “Cast Lead”, as a result of the long-standing blockade by Israel of the Gaza Strip.

2.1 PALESTINIAN CIVILIANS USED AS “HUMAN SHIELDS”

During Operation “Cast Lead” Israeli forces repeatedly took over Palestinian homes in the Gaza Strip forcing families to stay in a ground-floor room while they used the rest of their house as a military base and sniper position – effectively using the families, both adults and children, as “human shields” and putting them at risk.⁷² While soldiers wore protective body armour and helmets and shielded themselves behind sandbags as they fired from the houses, the Palestinian inhabitants of the houses had no such protection.

In the **al-Zaytoun district of Gaza City**, Israeli soldiers took over several houses of the extended al-Sammouni family when they entered the area. **As'ad 'Ali al-Sammouni** told Amnesty International: *“I live in this house with my wife, my three married sons and their wives and 11 children and my four unmarried sons. My two nephews, their wives and 15 children were also staying with us. We were some 45 people in all. In the night between 3 and 4 January we heard noises up on the roof terrace and we concluded that the soldiers must have descended from a helicopter because the gate and the front door were locked and no one could have entered the house from anywhere else. We heard them banging up on the roof terrace but nobody could dare to go upstairs to see what was happening. We all stayed on the ground floor. At about 6.30am there was banging at the front door and lots of soldiers came in. They grabbed me by the scruff of the neck and asked about Qassams and I said we did not have any such things. They tied and blindfolded all of us – men and boys – and put us all in one room in the ground floor, together with the women and children. I asked them to let me get my dentures from my room but they did not let me. After the end of the war I found them on them on the floor, broken, like so many other things. We were kept there for a day and a half. We only had a little bit of food for the children but not enough. Also we did not have water. On the second day (5 January) my cousin Mousa and his wife and baby girl came to knock at the door after they escaped from the house of my relative Wa'el across the road, which had been shelled and many relatives had been killed. The soldiers took him too and tied him and blindfolded him and put him and his wife and baby in the same room with us. When Mousa told us that Wa'el's house had been shelled and many relatives had been killed and injured the women and children screamed and cried and the soldiers came and asked what we wanted and we begged them to let us leave. In the end the army said we could leave except for Mousa and my nephew 'Imad and they said that if the Qassam fighters found out that there were soldiers in the house and attacked them they would kill Mousa and 'Imad. I asked again to fetch my dentures but the soldiers refused. I found them broken when I returned the house after the army left Gaza. We left on foot and some other relatives from nearby houses also joined us. The soldiers said we had to walk and not stop. My nephew Iyad was walking ahead of me and I saw him fall and I thought he had tripped but then I saw he had been shot in the left leg. I stopped to help but Israeli soldiers in the Jouha family house shouted to continue walking or they would shoot again so we had to keep walking. Iyad crawled for a bit and then collapsed. His wife and his five children saw him being shot and then crawl and collapse but they and us could not help him because the soldier did not allow anyone to stop. Further on the main Salahaddin Road we found an ambulance but they could not go to the place where Iyad had collapsed and so he was left to die where he had collapsed. The ambulance took Mousa's wife and baby girl, who was injured in her hand, to the hospital.”*

Members of the **Jouha family**, interviewed separately by Amnesty International, corroborated the account of events (see case of Ibrahim Jouha in Appendix 1).

Yousef Abu 'Ida (also known as Abu 'Abdallah), and his wife **Leila** and their nine children, five daughters and four sons aged between four and 22, were in their home in **Hay al-Salam** (Peace Neighbourhood), to the east of Jabalia. Israeli soldiers forcibly took over their house and held the family as "human shields" for two days while they used the house as a military position, then they forced the family out and later destroyed the house. Abu 'Abdallah told Amnesty International: *"At about 10.30am on 5 January a group of soldiers entered our home, and locked all of us in the basement while they went upstairs. They took our mobile phone and did not allow us to move. They took all the blankets and mattresses. We had no food and no water. The children were scared, cold, hungry and thirsty but we had nothing. We were kept like that for two days. We heard the soldiers laughing and shooting upstairs. We were scared. After a day the younger children were desperate for water and I took the bit of water which remained in the cistern of the toilet to give to them; there was no other alternative. After two days, on the morning of 7 January, the soldiers threw us out of the house. I asked to go upstairs to fetch some clothes and shoes but they did not allow us. We had to leave barefoot and with only what we were wearing when the soldiers first came into the house two days earlier."* The house was later destroyed (see Chapter 3.1).

According to testimonies, in several cases Israeli forces also forced unarmed Palestinian civilian males (mostly adults but in two cases also children) to serve as "human shields", including making them walk in front of armed soldiers; go into buildings to check for booby traps or gunmen; and inspect suspicious objects for explosives. These practices are not new. Numerous such cases have been documented in recent years and the Israeli Supreme Court has ruled that such practices contradict international law and prohibited them in October 2005.⁷³

Majdi Abed Rabbo, a father of five and a member of the PA security forces, told Amnesty International: *"At about 10am on Monday 5 January soldiers came to my house and took me with them to a neighbour's house where they were also keeping other neighbours. The soldiers were shooting from the house but I don't know at what because I could not see. At about 2pm a soldier took me outside, pointed to Abu Hatem's house and told me to go into that house to take the weapons and the clothes of the armed men who were in that house, whom they had killed. I refused but they told me to obey. I went into the house, and found three armed Qassam members alive. They told me to leave and not to come back and threatened to shoot me if I went back. I returned to the soldiers, who made me undress and turn around, and I then told them that the three were alive. They handcuffed me; they were shooting. Later they again sent me to check on the armed militants inside the house. I found one wounded and the others alright, who said: 'Tell the officer that if he is a man, he can come up here himself.' I went back and told the soldiers and they cursed me and handcuffed me. I heard a helicopter approaching, followed by the sound of a missile exploding. The soldiers said that now they were sure they had killed the armed men in the house with the missile. But when I looked I saw that the missile had struck my house and not the house with the gunmen inside. I told the soldiers. At about midnight, between Monday and Tuesday, I was forced to go for a third time, to check if the gunmen were dead. I found two of the gunmen still alive, but buried under the rubble; the third was still holding his weapon. I told the soldier, who got angrier and didn't believe me and sent two teenagers, Jamal Qatari and*

Zidane, to take photos. The two refused but the soldiers beat them and so they went and took photos and then the soldiers sent in a dog. By then it was about 10 or 11am."

His neighbour and relative **Akram Abed Rabbo**, a father of six, also told Amnesty International that he had been taken from his home in the early morning (about 2-3am) on **6 January** by Israeli soldiers who also used him as a "human shield" and forced him to inspect several houses in the area over a three-day period. He said: *"The soldiers sent me into the houses first and then they sent in the dog and only after that they went into the houses themselves. I didn't find anything in the houses I inspected, but I was afraid. Also, in the meantime I had no idea where my wife, who is pregnant, and my children were."*

In **Khuza'a**, east of Khan Yunis, **Mohammed al-Najjar**, 16, told Amnesty International that on **13 January** he was held by Israeli soldiers in a house they used as a sniper position: *"The soldiers, special forces, took me to the house. I was handcuffed and blindfolded but they untied me when they let me go to the toilet so I could see a bit then. They didn't interrogate me. They just sat around on a mattress and chatted and laughed and also sang a bit. I didn't understand what they said because they spoke in Hebrew, but one of them spoke to me in Arabic and told me to sing with them; I refused at first but then I had to obey. Then they shot a couple of shots and I heard women nearby screaming 'God is great' and crying. Later I knew that this is when they killed our neighbour Rawhiya.⁷⁴ I was afraid but nothing else happened; there was no other shooting. Later, before they left the house they told me to stay in the house for a while and that when I heard a shot being fired I could leave. I did as they said; I waited a bit and then took off the blindfold and left the house."⁷⁵*

According to Article 28 of the Fourth Geneva Convention, *"The presence of a protected person may not be used to render certain points or areas immune from military operations."* The prohibition against the use of "human shields" is further clarified in Article 51(7) of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Additional Protocol I). It states: *"Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations."*

2.2 INEFFECTIVE WARNINGS

During Operation "Cast Lead" the Israeli army made random calls to landlines and mobile telephones with recorded messages warning or threatening "the people of Gaza" to leave their homes or the areas where Hamas militants operated.⁷⁶ This practice, new in Gaza, was used by the Israeli army during the Lebanon war in July-August 2006.⁷⁷ The random messages were received by people all over Gaza, causing panic as they could neither leave Gaza – the borders were sealed – nor find a place in Gaza where safety was guaranteed.

In a BBC interview, Israel's Interior Minister, Meir Sheetrit, stated that: *"the army called 250,000 telephone calls to the people to leave their houses".⁷⁸* There are barely 250,000 households in Gaza. If indeed the Israeli army called that many families to tell them to leave their homes, this would mean that virtually every family was told to do so.

Leaflets dropped by the Israeli army on the morning of 3 January in various areas of Gaza and addressed to "residents of the area" warned: *"Because of the terrorist actions carried by some terrorist figures out of the area of residence against the state of Israel, the IDF was forced to immediately respond and act inside your area of residence. For your own safety you are required to leave the area immediately."*⁷⁹

Radio announcements, which the Israeli authorities say were broadcast on Palestinian radio stations that had been pirated by the Israeli army on 3 January, stated *"For your own safety, you are required to leave your homes immediately and move to the city centres"* and were addressed to "all residents of the area".⁸⁰ Leaflets dropped by aircraft reached most areas of Gaza, and radio announcements were similarly not limited to specific areas.

Such random telephone calls, leaflets and radio announcements did not constitute effective advance warning. They were too general and reached residents all over Gaza.

2.3 HUMANITARIAN ACCESS DENIED

Long before Operation "Cast Lead", the population of the Gaza Strip had been suffering the debilitating effects of a blockade imposed by Israel since Hamas ousted Fatah and gained control of Gaza in June 2007. Since then, Israel has treated the Gaza Strip as a "hostile entity".

Ostensibly aimed at preventing Hamas from smuggling arms into Gaza and stopping the firing of rockets into Israel, the blockade includes a vast range of goods and products that would have no possible military use.

The scope of the blockade and statements made by Israeli officials about its purpose have led Amnesty International to conclude that it is being imposed as a form of collective punishment of the entire population of Gaza, a flagrant violation of Israel's obligations under the Fourth Geneva Convention. In addition to violating the right to freedom of movement, Israel's blockade has also resulted in denial of the right to an adequate standard of living, including adequate food and housing, the right to work, and the right to health (see Chapter 5).

With only a few exceptions, the entire population of 1.5 million people has been trapped in Gaza. Students are unable to attend university studies and jobs abroad. Critically ill patients in need of medical care that is unavailable in local hospitals are often prevented from leaving Gaza. Since the blockade was imposed, dozens of patients have died due to lack of access to treatment.⁸¹

For over one year (from 18 January 2008), Israel barred all exports leaving Gaza. Such drastic restrictions devastated the economy, making 80 per cent of the population dependent on food aid. Despite this, Israel increasingly choked to a trickle the entry of humanitarian assistance, including food. In November 2008, the daily average truckload of supplies entering Gaza was 23, less than one 20th of the daily average in May 2007.⁸²



Waiting for food aid after the end of Operation "Cast Lead" © AI

All this meant that the 22 days of intense bombardment trapped tens of thousands of families in their homes with

no surplus supply of food, water or fuel to draw on. Most of those compelled to flee their homes, whether due to warnings by Israeli forces or the damage to their houses, crowded into the homes of family or friends. Others made their way to emergency shelters such as UNRWA schools. Wherever they went, however, they were not safe as homes, schools, clinics and UNRWA facilities came under attack. The effects of the blockade, compounded by the bombing, meant that everyone suffered a lack of basic necessities.

The amount of assistance allowed to enter Gaza did increase during the fighting in January (to a daily average of 122 truckloads). But this was still far from adequate given the massively increased burden on the health system caused by the daily toll of dead and injured, and the destruction of infrastructure. The delivery and distribution of the limited assistance that did make it into Gaza were hampered by Israeli attacks on aid convoys and UN compounds, some of which resulted in deaths and injuries to UN personnel, damage to facilities and buildings, and destruction of humanitarian supplies.⁸³

In this regard, Israel's actions clearly breached its legal obligations as the occupying power. Israel must ensure at all times that the population of Gaza has adequate access to food, essential supplies, medicine and medical care (see Chapter 6).

Israel not only failed to adequately supply the population of Gaza, it also deliberately blocked and otherwise impeded emergency relief and humanitarian assistance, launching several attacks on vehicles carrying humanitarian assistance, in violation of international humanitarian law. On 8 January 2009, for example, a UN aid convoy was attacked in the north of Gaza, killing one UN-contracted employee and injuring two others. The UN said that it had coordinated the convoy's movements in advance with Israeli officials. In addition the attacks on convoys and aid distribution centres, on paramedics and ambulances resulted in UNRWA and the ICRC strictly limiting their operations in Gaza during the fighting.

The blockade continues to impede recovery and reconstruction. The amount of assistance allowed into Gaza in February remained at about the same level as in January (127 trucks a day), about a quarter of the assistance that entered Gaza before Israel imposed the blockade.⁸⁴ Delivery of food and humanitarian goods remains subject to arbitrary restrictions. In March 2009, food items such as canned tuna, biscuits and tomato paste were blocked by Israeli authorities who declared that these items were not humanitarian.⁸⁵ Israel continues to bar entry of supplies necessary for reconstruction, including materials for construction, pipes and other spare parts for water works and other essential infrastructure.

The destruction of industrial and commercial property and agricultural land during Operation "Cast Lead" devastated much of what was left of Gaza's economy (see Chapter 3). According to OCHA, in February 2009 only 258 private sector establishments, employing 1,878 workers, were partially functioning. This is around 90 per cent less than the 2,400 active businesses, employing over 65,000 people, recorded in 2006.⁸⁶ In addition there was substantial damage to the agriculture and fishing sectors, which face ongoing access restrictions. Israel denies farmers access to their land if it is within 500m of the Gaza-Israel border, and bans fishing further than three nautical miles from the shore. The destruction and the continuing restrictions have put the livelihoods of 14,000 farmers, herders and fishermen at risk of collapse.⁸⁷

3. WANTON DESTRUCTION IN GAZA

“The level of human suffering and destruction I saw today is, from any angle, heartbreaking. It is shocking that civilians suffered so disproportionately in this military operation”

UN Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator John Holmes, 22 January 2009.

More than 3,000 homes and hundreds of other properties, including factories, workshops, animal farms and orchards, as well as government buildings, police stations and prisons, were destroyed and more than 20,000 were damaged during Operation “Cast Lead”.⁸⁸ The Israeli authorities’ explanation for such devastation was “military/security necessity”.



Homeless after the destruction © AI

Israeli government and army spokespeople have insisted that only Hamas command facilities, weapons stores, combat positions, and houses which contained tunnels or were booby-trapped were targeted, and that damage to civilian infrastructure was incidental or resulted from Hamas using the civilian population as a "human shield".

Some of the properties targeted in the Israeli air bombardment campaign or in other attacks by Israeli forces may have been used to store or manufacture rockets whose destruction would not violate international humanitarian law. In other cases, destruction of and damage to homes and other civilian property resulted from armed confrontations between Israeli forces and Palestinian militants after Israeli forces entered Gaza on 3 January, and took positions in and around Palestinian villages and in the outskirts of towns. In these areas, both Israeli forces and Palestinian militants used Palestinian homes and other civilian properties as combat positions.⁸⁹

However, in reality, the targeting of military objectives and incidental damage resulting from such attacks or from armed confrontations account for only some of the overall devastation.

Much of the destruction was wanton and resulted from deliberate and unnecessary demolition of property, direct attacks on civilian objects and indiscriminate attacks that failed to distinguish between legitimate military targets and civilian objects. Such attacks violated fundamental provisions of international law, notably the prohibition on direct attacks on civilian objects, the prohibition on indiscriminate or disproportionate attacks, the prohibition of destruction of property not required by imperative military necessity, and the prohibition on collective punishment.

The extensive devastation of civilian homes and property cannot be dismissed as "collateral damage". The patterns and scale of the attacks, statements by Israeli officials before and during the three-week military offensive, and graffiti left by Israeli soldiers on the walls of Palestinian homes which they took over during their incursion into Gaza, indicates that the wholesale destruction was to a large extent deliberate and an integral part of a strategy at different levels of the command chain, from high-ranking officials to soldiers in the field.⁹⁰

On 1 February, 12 days after Israel's and Hamas' respective ceasefire declarations, then Israeli Prime Minister Ehud Olmert threatened further "disproportionate" retaliation for Palestinian rocket attacks from Gaza.⁹¹

3.1 HOMES DESTROYED WITHOUT JUSTIFICATION

Amir Marmor, a gunner in a tank crew of a reserve armoured battalion that operated in Jabalia, said: *"The operation was marketed to us and the entire nation as a measured retaliation to the Hamas attacks, but to me it was like a punishment exercise. That was what it seemed like from the enormous extent of the destruction. We were there for a week and despite the fact that no-one fired on us, the firing and demolitions continued incessantly. I am very doubtful how many of the demolitions can be justified. We were told to expect incoming fire from various directions; our first reaction was to blow up or bulldoze houses in a given direction so as to give us better lines of fire. But then no fire came from that direction, or any other. On another occasion we were told that an attack was expected and an artillery barrage was fired, but we didn't see anyone moving there."* (emphasis added)⁹²

For the vast majority of homes destroyed, more than 3,000, and damaged, some 20,000, during Operation "Cast Lead", the Israeli army has provided no evidence to substantiate its allegations that the houses were used as combat positions, as military command centres or to manufacture or store weapons – or for any other purpose which, under certain circumstances, would have made it lawful to target them.

The most sweeping destruction of entire neighbourhoods took place in the north and east of Gaza, in the areas which are nearest to Israel and consequently most often invaded by Israeli forces whenever they enter Gaza. Indeed, many of the houses destroyed during Operation "Cast Lead" had been raided or temporarily taken over by Israeli soldiers during incursions in recent years. It is unlikely that Hamas or other Palestinian groups would have located their command centres, rocket manufacturing workshops or weapons stores in the areas most accessible and most easily overrun by Israeli troops.

Amnesty International delegates and hundreds of foreign reporters who poured into Gaza in the wake of the ceasefire could wander freely through the affected neighbourhoods and inspect the destroyed properties. Some buildings were too extensively destroyed to allow for any meaningful inspection and Amnesty International researchers did not attempt to inspect all or even most of the destroyed houses. However, in those that they did inspect they found no remains of weapons or other evidence that weapons or explosives had been stored there and did not observe conflagrations that would have likely resulted if an explosives cache had been struck. In many cases, the pattern of destruction suggested that the aim was to cause sufficient damage to put the properties out of use rather than to destroy arms caches, as the kind of damage inflicted would have neither destroyed weapons or rockets – if any had been there – nor impeded their retrieval. What is more, the bodies recovered from under the rubble of these houses were of civilians – not armed fighters.

*"Most of the houses in the area we were in turned into heaps of crumbling cement. Nothing was left of Hamas' bases; we destroyed nearly all of their training grounds. We expected really strong resistance and our commanders prepared us for the worst. We were so tense before we went in – and nothing. Not even light firearms were directed at us. One doesn't see them that much, they mostly hide."*⁹³

Many of the houses, factories and farms were bulldozed and many of the houses were destroyed with Israeli anti-tank mines, as evident from the remains of the mines that littered the destroyed neighbourhoods, and from the pattern of destruction resulting from this method. Although designed to be used against tanks, these mines can also be set off remotely. Israeli forces have often used them to destroy Palestinian houses in the West Bank and at times also in Gaza.

The fact that the soldiers used this method – which required them to leave their tanks, walk between buildings and enter houses in order to place the explosive charges inside the houses along the supporting walls – indicates that they felt extremely confident that there were no Palestinian gunmen inside or around the houses. It also indicates their confidence that there were no tunnels under the houses which gunmen could use to capture them, and that the houses were not booby-trapped. Had the soldiers believed that they were in danger of being shot, blown up or captured, they would not have ventured out of their tanks to place the mines inside the houses.

At the destroyed home of the **Mardi family** in **Atatra**, in north-west Gaza, Amnesty International delegates found one of the anti-tank mines used by Israeli soldiers to blow up the house on **5 January**. The mine, which bore Hebrew markings writing and serial numbers, was damaged but had failed to explode. The family said that they had found another mine, wholly unexploded, which had been removed by the local police. Sitting by the rubble of his home, 63-year-old Na'im Mardi, told Amnesty International:

"Twenty-two people lived in this house. Me and my wife and our two youngest children in one apartment, and my four married sons and their families each had their apartments in the house. When the Israeli ground forces invaded on 3 January the situation became very dangerous in the area and most people fled. All my children went to stay with relatives nearby but I refused to leave my home. All my life's hard work is in this house and I would not abandon it.

"The day after (4 January) my son and his wife and three children came back; they didn't want to leave me in the house alone with army all around the area. That evening the soldiers told us to get out; they said the house would be safe. We went to stay with the neighbours' next door.

"The following morning at about 9am they started to blow up our house. There was nothing we could do. Then the soldiers told us and all the people of the neighbourhood to leave. Hundreds of us set off walking south-east; the soldiers were shooting all around us and one bullet hit my granddaughter, Nada, who was five years old. It hit her in the head and killed her."

In the **al-Jaru neighbourhood** on the eastern outskirts of **Gaza City**, most of the residents were forced to flee their homes when Israeli tanks took position in and around the area. Those who remained were at risk from Israeli shelling. One of the last families to leave was that of **Dr 'Aouni**, whose wife and baby son were killed on 8 January when the home was hit by tank shells (see details of the case in Appendix 1). When the residents returned to their home after the ceasefire they found that 45 houses, which were home to 250 members of the extended al-Jaru family, had been reduced to rubble. Many of the destroyed homes were in the more upmarket suburbs in eastern and northern Gaza, away from the overcrowded inner cities and refugee camps, in neighbourhoods made up of larger, individual houses with gardens and orchards belonging to members of the extended families after whom the neighbourhoods are named. The residents are mostly farmers, professionals or employees of the Ramallah-based PA government. Many are supporters of Fatah, Hamas' main rival. Many of the houses were built in the second half of the 1990s, during the years of the Israeli-Palestinian "peace process", following the Oslo Accords. Families who had put their entire life savings into building their homes lost everything.



Yousef Abu 'Ida salvaging possessions from his destroyed house © AI

Yousef Abu 'Ida and his wife **Leila** worked as teachers in the United Arab Emirates for 28 years and returned to Gaza in the mid-1990s and used their savings to build a large five-storey house in **Hay al-Salam**

(Peace Neighbourhood) to the east of Jabalia, where they lived with their five daughters and four sons, aged between four and 22 years. During Operation "Cast Lead" Israeli soldiers forcibly took over their house and held the family as "human shields" for two days while they used the house as a military position; they then forced the family out and later destroyed the house (see his testimony in Chapter 2.1). Yousef Abu 'Ida told Amnesty International:

"On 4 January, the day after the beginning of the Israeli ground invasion, we were in the house, the whole family, me and my wife and the children; we were hearing bombardments and shelling in the area, I don't know how near... The following morning an army bulldozer uprooted our garden and orchard around the house, where we had tomatoes and citrus fruit trees. I spoke to the soldiers in English, telling them we were a civilian family. At about 10.30am a group of soldiers entered our home, and locked all of us in the basement and they went upstairs... After two days, on the morning of 7 January, the soldiers threw us out of the house... We went to stay with relatives in Jabalia and kept worrying about what damage the soldiers might have done to our home, but we never thought they would destroy it... When the ceasefire was declared and we could go back we found a pile of rubble instead of our home. It was a beautiful home. All the years of our hard work went into building our beautiful home. Each of the children had their room, with a private bathroom; each had a computer and a TV. We had beautiful furniture; it was our palace; the most beautiful home in Gaza. Now we have nothing, we have lost everything and are reduced to picking some of our clothes from the rubble; everything is smashed up; photographs and many irreplaceable things are destroyed. We have three dogs; we found them by the rubble, to greet us when we came back, everything else is lost. We came back to Gaza after the Oslo Accords, and made a beautiful home, because we believe in peace. How could they do this to us? We have never hurt anyone."

Several other houses belonging to members of the Abu 'Ida family, as well as a large cement factory, a chicken farm and other business premises, were likewise destroyed, leaving scores of people homeless and destitute. Among them were Yousef Abu 'Ida's sister **Souad**, and her husband and six children, who lived next door and who were expelled from their home at the

same time, on **7 January**. One house belonging to other family members, located in the nearby Abed Rabbo neighbourhood, was also taken over by soldiers from the Golani Brigade and used as a military position. It was not destroyed but was trashed and damaged. Graffiti scribbled on the walls by the soldiers read: "Death to the Arabs" and "We will be back".

In **Khuza'a**, south-eastern Gaza, some 20 large houses clustered together, mostly built in the late 1990s, were bulldozed on **13 January**. The previous two days there had been some armed clashes nearby between Israeli forces and Palestinian gunmen and indiscriminate Israeli attacks, including white phosphorus and other artillery attacks. Many of the families had left to stay with relatives or neighbours nearby and those who had not left were forced out. Residents told Amnesty International that on the morning of 13 January Israeli soldiers approached their houses with armoured bulldozers and called on them to leave and began to destroy houses with their residents still inside. **Nabil al-Najjar**, his wife and their five children are among those who lost their home. He told Amnesty International:

"There was shelling in the area on 11-12 January and some of it reached the homes. Some of the bombs which fell were white phosphorus. When it fell there would be a fire and we would throw sand on it. By 13 January most of the families had left and on that day eight bulldozers came in before dawn and worked methodically destroying the houses; it took them seven hours to finish the job, razing the homes and orchards. Some families were still in their houses. People built their homes here around 10 years ago, when we thought there would be peace. That olive tree I planted in 1998, the day President Clinton came to visit Gaza. Near the house I planted trees – 120 trees – all sorts of fruit trees: pear, plum, almond, apricot, medlar, citrus trees. That one is a pomelo [a kind of grapefruit] tree; that is a Santa Rosa variety. They were still small – why did they bulldoze them?"

In addition to the damage incidental to the fighting,⁹⁴ Israeli soldiers – for no apparent reason – sometimes destroyed and frequently vandalized the houses they took over. They defaced the walls with racist and threatening graffiti, deliberately smashed and soiled furniture and possessions, and often left excrement all over the houses when they left. In the same houses Amnesty International researchers found evidence of the soldiers' stay in the houses, such as spent ammunition, food rations, army medical kits and other supplies, the army magazine *Bamachaneh* and Hebrew prayer leaflets.

Soldiers' graffiti included: "Death to the Arabs, we came to annihilate you"; "Die all of you, Arabs have 2 die, 1 down 999,999 to go"; "Next time it will hurt more"; "All of Gaza is a Jewish playfield"; "Kahane was right"; and "If we missed a corner of the house we'll get back to you in the next operation" (in a vandalized house).⁹⁵

"With us there was an order one day that we had to clean out the whole house, all the equipment and furniture. So we just threw it all out of the window to make room and tidy up. The whole house came flying through the window – fridge, plates... The order was to take out all the content of the house; the fridge and all the furniture." (Aviv)... Why? 'A combination of reasons, I think. From the operational point of view it makes it more comfortable in the house, it was getting crowded. Not at first when we moved in, but after a few days in terms of hygiene, apart from anything else. It was all messy and filthy like living in a garbage dump.' (Zvi)"⁹⁶

3.2 PUBLIC BUILDINGS DESTROYED WITHOUT JUSTIFICATION

A number of public buildings were bombed by Israeli forces in the first days of Operation "Cast Lead". They included the Palestinian Legislative Council (PLC), or parliament, the Ministries of Foreign Affairs, Labour, Housing and Construction, Finance and Justice, Gaza Central Prison, virtually all the police stations throughout the Gaza Strip and Hamas-affiliated TV stations and newspapers (there is no evidence that the Hamas-affiliated media was used to broadcast or publish orders relating to the conduct of hostilities).

The American
International School in
Gaza © AI

The justification
for them being
targeted was
provided by
Major Avital
Leibovitch, an
Israeli army
spokeswoman,
who stated that
"Anything
affiliated with
Hamas is a
legitimate



target".⁹⁷ A senior intelligence officer told the *New York Times* that the army attacked "both aspects of Hamas — its resistance or military wing and its dawa, or social wing," arguing that Hamas was all of a piece and in a war, its instruments of political and social control were as legitimate a target as its rocket caches.⁹⁸

This doctrine is not new. Since 2000, Israeli forces have repeatedly bombed public infrastructure and official PA buildings both in Gaza and in the West Bank, including the presidential compounds, ministries, prisons, police stations, and Gaza's airport and power station. Until 2006 the targets of such attacks were the symbols of power of the Fatah party, which until then controlled the PA, and since 2006 the same targets have been attacked on the grounds that they are symbols of Hamas.

However, many public buildings attacked by Israeli forces housed neither fighters nor weapons and did not serve as command and control centres. There is no evidence they served any military purpose and hence cannot be considered military objectives. Their bombardment constituted direct attacks on civilian objects, a serious violation of international humanitarian law and a war crime. Many of the buildings had mostly been vacated because, based on past experience, it was expected that they would be bombed.

3.3 A FRAGILE ECONOMY RUINED

An indication of the scale of the destruction of Gaza's industry and business and its financial implications is the amount of aid – US\$4,481 million – pledged by international donors for the Early Recovery and Reconstruction Plan for Gaza at the International Conference in Support of the Palestinian Economy for the Reconstruction of Gaza, held in March 2009.⁹⁹

Between 600 and 700 factories, workshops and businesses were destroyed or damaged, according to the Palestinian Union of Businesses and the Palestinian Federation of Industries. Given the already dire economic situation in Gaza, the impact on residents is particularly severe and will seal the fate of many businesses. Many simply will not survive.

Moreover, reconstruction and repair is being hampered by the shortages of most goods and materials, shortages that have plagued Gaza for almost two years. Five months after the end of the conflict, thousands of families are still waiting for glass to repair windows shattered by the bombardments. Israel does not allow glass panes, like most building and other material, into Gaza.

Among the factories destroyed are several belonging to the Abu 'Ida cement and construction company which carried out the building work for Gaza's power station, a US-Palestinian joint venture. It also supplied the concrete for major work on the sewage treatment plant in northern Gaza, the main infrastructure project in Gaza supported by the Quartet's Middle East envoy,¹⁰⁰ former British Prime Minister Tony Blair.¹⁰¹ The company supplied some 35-40 per cent of all the concrete used in Gaza up to 2007, when Israel stopped allowing cement and other construction material into Gaza. Family members involved in the company worked in partnership with several Israeli companies and had permits to enter Israel. The **cement plant**, located in the **'Izbet Abed Rabbo** industrial area (east of Jabalia), and all its machinery and vehicles were destroyed during Operation "Cast Lead", along with other family businesses.

Scores of factories, workshops and packing houses located in the industrial area were all destroyed. Among them was the largest and oldest **food factory** in Gaza, established in 1962, which belongs to the **al-Wadiya** family.¹⁰² It employed 270 people and produced ice cream, biscuits and sweets. It was the only large factory which had managed to continue producing in spite of the blockade and was the exclusive distributor of the giant Israeli food company Tnuva in Gaza. Dozens of vehicles were also destroyed.

After Israeli forces left on 18 January, the area looked as if it had been wrecked by an earthquake, except that it was littered with Israeli anti-tank mines (many of these had failed to explode and were collected by the police) and cartridges of Israeli 120mm tank shells. The distinct track marks of tanks and armoured vehicles could be seen everywhere.

The **Bader flour mill** in the **north-west of Gaza**, established in 1920, was likewise targeted and much of the machinery was damaged beyond repair in an attack on **10 January**. The mill had continued to function daily up to the day of the attack, and its owners are adamant that the site was neither a launch pad for rockets nor a weapons cache, and the Israeli army has provided no evidence to the contrary.

Vandalized vehicles and equipment at the cement factory in al-Zaytoun © AI

In the **al-Zaytoun district, in the south-east of Gaza City**, another **cement factory** was targeted. The building was left mostly standing, but the silo, pumps and other equipment were destroyed. All the vehicles, including three mobile pumps,



seven mixers, a bulldozer and a private car, were overturned or partly crushed. The only vehicle to be spared was a broken down truck. The tracks of the armoured vehicles that had caused the damage were still visible all over the yard when an Amnesty International delegate visited on 29 January. The elderly guard said that after Israeli forces entered the area he had remained trapped at the factory until the evening of 9 January, when he was escorted out by the PRCS. He had, however, been unable to take his car and when he returned to the factory after the ceasefire he found it crushed.

The nearby **Khuzundar electrical factory**, which produced circuit boards, plugs and other electrical material, and employed some 50 people, was similarly trashed. The guard, who lived on site with his wife and four young children, also lost his home.

As well as houses and factories, animal pens and greenhouses were smashed and cultivated orchards were churned up by bulldozers. Not only were the farms destroyed but the animals were also killed. In **'Izbet Abed Rabbo** and other areas in the east of Gaza the fields surrounding the crushed **animal pens** were littered with dead cows, goats and sheep, some crushed by bulldozers, others seemingly killed as they ran away.

In the al-Sammouni area of the **al-Zaytoun district**, a large **chicken farm** was likewise flattened and 65,000 chickens were crushed to death or buried alive. The tracks of tanks and armoured bulldozers were clearly visible where the vehicles had driven over the cages and coops, crushing thousands of chickens. The farm used to supply 30,000 eggs weekly to the aid NGO Oxfam for its food distribution programme.

Gaza's largest private fish farm, located in western Gaza, far from the Israeli fence in the east, was also destroyed. The six artificial ponds were smashed, killing some 20,000 fish. At the site there was no trace of weapons storage or tunnels, nor any signs that gun battles had taken place in the large expanse of open ground that would have offered no cover for gunmen. All that was visible were the tracks of armoured vehicles that had driven up and down the farm.

3.4 AN AGRICULTURAL WASTELAND

The trail of destruction caused by Israeli forces during Operation "Cast Lead" in Gaza dealt yet another blow to the Palestinian agricultural sector. With the worsening economic situation and increased poverty and shortages, more and more people had come to rely on agriculture for survival. The destruction of vast areas (by Gaza's standards) of cultivated land, such as farms and orchards, has caused a devastating amount of this year's harvest to be lost and left even more people food insecure. According to OCHA, the estimated losses to the agriculture sector caused by Operation "Cast Lead" total US\$268 million.¹⁰³ According to the UN World Food Programme (WFP) and the UN Food and Agriculture Organization (FAO), between 35 and 60 per cent of the agriculture sector was wrecked, with almost all the 13,000 families who depend directly on farming, herding and fishing suffering significant damage to their livelihoods.¹⁰⁴

Most of the wholesale destruction was in the north and east of Gaza, in areas nearest to the dividing line between Gaza and Israel. These areas have been the theatre of frequent Israeli incursions over the past eight years. Israeli forces have progressively widened the no-go areas for Palestinians on the northern, eastern and southern flanks of Gaza.

Large tracts of Gaza's most productive land, which until a few years ago produced much-needed food for the tiny territory's growing population, have been turned into condemned



Dead animals
by destroyed
farm in
northern Gaza
© AI

wastelands. This, combined with the dramatic reduction in food imports allowed into Gaza due to the Israeli blockade, has resulted in growing food insecurity for the population.

Farmers in the north and east of Gaza have seen their orchards progressively shrink as the no-go area imposed by the Israeli army along the fence separating Israel from Gaza has been expanded. On 25 May 2009 Israeli aircraft dropped boxes containing thousands of leaflets

over northern and eastern Gaza, warning Gazans to keep away from the area 300m from the border and indicating that those who went risked being fired upon.¹⁰⁵ The leaflets contain a map of Gaza with the strip along the border marked. However, there is no demarcation line inside Gaza showing exactly where the boundaries of the no-go area lie.

Since the withdrawal of Israeli soldiers, several Palestinian farmers, usually accompanied by international peace activists, have been shot and injured by Israeli forces when going to cultivate their land in eastern Gaza. Israeli forces claim that they only target Palestinian militants who are attempting to sneak through the fence into Israel, digging tunnels or placing explosive devices aimed at Israeli forces operating in the areas. However, in reality, in recent years, many unarmed Palestinian civilians have been shot and several killed just for being there, including children and mentally ill people who wandered into the areas unaware of the danger. In some areas farmers have not been able to reach their land in safety up to a kilometre from the fence.

3.5 ISRAEL'S RATIONALE FOR WHOLESAL DESTRUCTION

The Israeli army's overly broad interpretation of what destruction is justified and proportionate in the framework of "military/security necessity" has long been at the heart of the army's doctrine.¹⁰⁶ It includes targeting any properties from which or near which it claims attacks were launched or could be launched, as well as those that were used for cover during attacks. It also includes the destruction of properties to clear the army's lines of sight in areas considered as sensitive and to create buffer zones near potential targets.¹⁰⁷ According to the Israeli authorities, all such activities fall within the category of "military/security necessity", as they are deemed necessary to prevent attacks by Palestinians.¹⁰⁸

The Israeli army's definitions of legitimate targets and proportionality are not consistent with the requirements of international humanitarian law. The Israeli army considers as a military target (a target that may be lawfully attacked and destroyed) any house or property which is used in any way by Palestinian armed groups – even when this was only possible because Israeli soldiers forced the inhabitants to leave. For example, when Israeli forces entered Gaza on 3 January, they took position in and around Palestinian residential houses and property, forcing many of the inhabitants to leave. Palestinian militants then used some of the empty properties – which would not have been possible if the Israeli forces had not forced the inhabitants to leave. (Palestinian militants often used empty houses, but in so far as Amnesty International could establish did not forcibly take over inhabited houses; Israeli soldiers likewise used empty houses, as well as houses whose inhabitants were present and were being held against their will.)

Similarly, the Israeli army has often destroyed properties near which Palestinian gunmen have allegedly launched rockets claiming these houses can be destroyed at any time – even if the inhabitants or owners are not aware that rockets have been launched from near their house and would not have been in a position to stop the attack. Destroying their property is tantamount to collectively punishing them for actions in which they have no involvement and which they have no power to prevent.

Often, Palestinians do not deny that attacks or armed confrontations may have taken place in

the vicinity of their property at some point prior to the destruction, but deny that their property was used to carry out attacks. Bar a few exceptions, the Israeli army has provided no evidence that the destroyed properties had been used for such attacks and has not specifically accused those whose houses or properties it has destroyed of having themselves been involved in attacks. Rather, the army contends that Palestinian militants use the civilian population as "human shields" from behind whom they attack Israeli forces.

Palestinians whose homes and properties are located in the areas which were invaded by Israeli forces consequently found themselves in an impossible situation. They were forced to leave or had their movements severely restricted by the Israeli army, then had their properties destroyed because militants and/or soldiers allegedly used them once they were empty.

In reality, the large-scale destruction of properties in these circumstances has often been carried out as a form of collective punishment in retaliation for Palestinian attacks or to deter future attacks. Collective punishment is inherently unlawful. And Israeli forces' use of mass destruction of homes and property as a deterrent also violates international humanitarian law because it is disproportionate, excessive and not justified by reasons of imperative military necessity.

Firstly, the widespread destruction of buildings and crops all over Gaza for the past eight and a half years has not prevented Palestinians from launching attacks from these areas. Rockets can be launched just as well from near a pile of rubble or an empty or uprooted field as from near a building or a cultivated orchard. It is thus unclear how such destruction can be considered to be militarily necessary.

Secondly, the rationale that it is legitimate to destroy any building or orchard from or near which an attack may have been launched in the past or may be launched in the future would mean putting virtually every building and every open space in Gaza on the list of targets for destruction – as rockets could be launched from anywhere in Gaza and reach Israeli territory.

Such a broad definition of "military/security necessity" not only undermines the Fourth Geneva Convention's prohibition on destruction of property by the occupying power, but also effectively negates the principle of distinction, a cornerstone of the laws of war. It blurs the distinction between military objectives and civilian objects, potentially rendering the protection afforded to civilian objects virtually meaningless (see Chapter 5).

Overly broad interpretations of what constitutes a military objective or military advantage are often used to justify attacks aimed at harming the economy of a state or demoralizing the civilian population. Such interpretations undermine civilian immunity. A legitimate military advantage cannot be one that is merely "a potential or indeterminate advantage". If weakening the enemy population's resolve to fight were considered a legitimate objective of armed forces, there would be no limit to war.

According to Article 147 of the Fourth Geneva Convention, "*extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly*" is a grave breach of the Convention, and hence, a war crime. Direct attacks on civilian objects are war crimes.

4. CONDUCT OF PALESTINIAN ARMED GROUPS

“My five-year old son always asks where the closest bomb shelter is. Little children shouldn't have such worries; they should worry about what to play next.”

Geut Aragon, whose house in Sderot was hit by a Palestinian rocket, January 2009.

4.1 ROCKET ATTACKS

Between 27 December 2008 and 18 January 2009 the armed wing of Hamas and other Palestinian armed groups based in Gaza launched rockets and mortars¹⁰⁹ on a daily basis into towns and villages in southern Israel, as well as against Israeli military positions and patrols inside Gaza and along Gaza's perimeter. Rockets launched from Gaza reached the towns of Ashdod and Bersheva, up to 40km north and east of Gaza.¹¹⁰

According to the Israeli authorities, 571 rockets and 205 mortar shells landed in Israel during the 22 days of Operation “Cast Lead”, killing three civilians and causing severe injuries to four people, moderate injuries to 11, and light injuries to 167 others. An additional 584 people suffered from shock and anxiety syndrome.¹¹¹ Several civilian homes and other structures were also damaged, one was almost completely destroyed.

In all, 18 Israeli civilians, including four children, have been killed in Israel by rocket and mortar launched from Gaza since June 2004, when the first fatality from such attacks occurred.¹¹² Hundreds of other civilians have been injured, several very seriously. Although the vast majority of these rockets have landed on empty ground, scores have struck homes, businesses, schools, other public buildings and vehicles in and around towns and villages in southern Israel. It is purely by chance that in most cases such strikes have not caused death or injury, and the lethal potential of these projectiles should not be underestimated. Above all, the constant threat of impending rocket attacks has caused fear and disrupted the lives of the growing number of Israelis who live within range of such attacks, reaching up to a million.

The rockets fired by Palestinian armed groups include Grad or Katyusha rockets (Russian generic names), which have a range of about 35km, home-made short-range Qassam rockets

(another generic name) and locally manufactured mortars. All are unguided projectiles which 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. Hence, when these weapons were used with the intent of striking military targets in Israel, but struck civilian objects instead, they constituted indiscriminate attacks. When rocket attacks were intended to strike homes, civilian infrastructure or civilians, they were direct attacks on civilians or civilian objects. In either case, such attacks constitute serious violations of international humanitarian law and are war crimes (see Chapter 5).

4.1.1 ISRAELI CIVILIANS IN THE LINE OF FIRE

The three Israeli civilians killed in rocket attacks during Operation "Cast Lead" were victims of the longer-range Grad-type rockets. **Beber Vaknin**, a 58-year-old metal worker from **Netivot**, was killed in his home on **27 December 2008**. He was standing by the entrance of his building and was fatally wounded by shrapnel from a rocket which struck the third floor of the building across the street from his home.

Two days later, two more civilians were killed in separate rocket attacks for which Hamas claimed responsibility. **Hani al-Mahdi**, a 27-year-old construction worker from the Bedouin minority, was killed and 16 other workers were injured when a rocket exploded just before 9.30am at a construction site in **Ashkelon**. **Irit Sheetrit**, a 39-year-old mother of four who worked as a secretary in a school in Ashdod, was killed when a rocket exploded near her car in the centre of **Ashdod** shortly after 9pm. Her sister, who was with her, was wounded but survived.

A rocket that exploded in **Bersheva** on **15 January** injured six Israeli civilians, two of them seriously, including seven-year-old **Uriel Elazarov**. The child was in the car with his mother when the warning siren sounded at about 5pm. She stopped the car, got out and lay on the ground, following the instructions of the Israeli Home Front Command. She tried to shield her son with her body, but he was wounded in the head by shrapnel from the rocket, which was reportedly packed with metal balls. A second rocket fell in an open area in the city at around the same time.

Many Israeli civilians narrowly escaped death when rockets fired by Palestinian groups exploded in the buildings or near them during the 22 days of Operation "Cast Lead".

On **2 January 2009**, for example, a rocket exploded at 7.50am in the third-floor apartment in **Ashkelon** of **Viktor** and **Esther Berdichev**, both aged 55. The rocket crashed through the bedroom window and exploded where Viktor had been sleeping less than a minute earlier. Esther told Amnesty International: *"Everything was dark. I choked on the dust, and was lightly hurt by the flying debris. Two rooms were completely destroyed, and the rest was covered in dust, shards of glass from the broken windows and debris. I cannot sleep at night and any loud noise upsets me."*

The couple said that as a result of the attack they wanted to move to the centre of the country, but Esther was worried about losing her job: *"We never thought we'd be in a situation like this, not having a place to rest our heads... We moved to Israel from Moldova in*

1992. We worked hard to build our lives in that home. Now we've lost everything. At least in 1992 we had our clothes."

The Berdichev family in temporary accommodation after a Palestinian rocket hit their apartment © AI

After exploding in the Berdichevs' home, the rocket continued its trajectory into the apartment of the **Yosupov family** one floor below. Stanislaw Yosupov and his daughters Zoya and Ilona had also been sleeping when the warning siren sounded. The rocket landed in the study and from there reached the hallway, where it caught fire. The windows were shattered. Luckily, no one was injured.



On **10 January**, a barrage of 21 rockets resulted in several Israeli civilian casualties. The Barzilai hospital in **Ashkelon** reported treating 13 people with light injuries and one with moderate injuries. Among the casualties were seven-year-old twins, **Mika and Danny Gorlik**, and two men injured by debris when two rockets struck two apartment buildings in the centre of Ashkelon.

Barzilai hospital, which has treated most casualties of rocket attacks launched from Gaza, has also been in the line of fire itself. On **27 February 2008** a rocket landed in the hospital grounds, next to the helicopter pad, luckily causing no damage. In late December 2008, as rocket fire from Gaza increased during Operation "Cast Lead", the hospital saw no alternative but to move the least mobile patients and essential departments into the basement.

In the second week of January 2009, Dr Ron Lobel, the hospital's deputy chief executive officer, told Amnesty International that since the beginning of Operation "Cast Lead", two weeks earlier, the hospital had treated some 250 people, about half of them with mostly light physical injuries and others suffering from acute stress, including myocardial infarctions (heart attacks), early delivery of babies by pregnant women, and other physical signs of emotional distress. The hospital had also treated people who sustained injuries while running to the shelters when they heard the sirens. In the same period the hospital treated some 50 soldiers injured during the Gaza military campaign.¹¹³

The Home Front Command ordered the closure of all schools in Ashkelon from 27 December 2008, as the army expected rocket fire to intensify during the military offensive against Gaza. While the Home Front Command did not order the evacuation of civilians, many did leave on their own initiative. The Ashkelon municipality facilitated the evacuation to volunteer hosts elsewhere in Israel. Any disabled person who required evacuation was transferred to a disabled care centre in Herzliya (north of Tel Aviv). According to municipal officials up to 40

per cent of the inhabitants left during the first half of January 2009. The option of staying elsewhere was open to the more affluent residents while the poorest stayed behind and made use of communal bomb shelters. According to the municipality's director of social services, out of 125 bomb shelters in use in disadvantaged neighbourhoods (which are mostly situated to the south of the town) 52 were in use 24 hours a day, seven days a week, during the period of conflict. Not all the shelters had sufficient water and electricity supplies, though the town hall did distribute mattresses, blankets, heaters and radios.

In contrast to previous periods of shelling when the Home Front Command did not put any restrictions in place, during Operation "Cast Lead" the Home Front Command ordered residents of the Israeli territory adjacent to the perimeter of the Gaza Strip, which includes Sha'ar Haneguv and Sderot Negev regions, to remain in their homes in their fortified shelters. Though no orders were given to evacuate the area, in certain villages such as Kfar Aza, where a resident was killed in May 2008, 80 per cent of the residents did leave and a dozen families have moved away permanently. Kibbutzim (co-operative villages) were able to make use of the network of the kibbutz movement to arrange for the temporary relocation of some of their members. In this way Nahal Oz could send families with children, or approximately 60 per cent of its population of 320, to partner kibbutzim in northern Israel. In the neighbouring villages of Gavim and Mifalim an estimated 50 per cent of residents left to stay with friends and family elsewhere. In Sa'ad 30 per cent of the residents left during the Gaza conflict and the kibbutz administration arranged for all the children from the children's home run by the village to be evacuated. Most rockets fell in open fields, on greenhouses and in orchards, though some did cause damage to residential buildings.

On at least one occasion a Palestinian rocket which fell short of its target landed inside Gaza and caused damage to a World Food Programme (WFP) warehouse near the Karni merchandise crossing between Israel and Gaza (the crossing has been closed since 2007). The warehouse is usually guarded by Israeli forces and since the beginning of Operation "Cast Lead" no UN staff members had been present there. The rocket strike caused no casualties but it damaged the warehouse, which at the time contained 400 tons of food and non-food items. The UN Board of Inquiry found that the damage to the warehouse was caused by a Qassam-type rocket locally manufactured in Gaza.¹¹⁴

4.1.2 WIDENING CIRCLE OF FEAR

Mortars started to be fired from Gaza into and around Sderot, a town of some 20,000 about 1.5km from Gaza, and nearby villages in 2001. Crude home-made Qassam rockets followed, initially with a maximum range of 3-4km but progressively upgraded to reach 12-15km by 2005.¹¹⁵

In recent years longer-range Qassam rockets fired from Gaza have begun to reach further into Israel, notably Ashkelon, a major town some 20km north of Gaza with a population of 120,000. While most Qassam rockets initially fell mostly to the south of the town, away from the populated areas, since early 2008 Grad-type rockets, apparently smuggled into Gaza from outside, have reached the centre and north of Ashkelon, as well as Netivot, some 20km east of Gaza.



The Ben Dayan home in Ashkelon after it was hit by a Palestinian rocket on 12 January 2009 © AI

In recent years thousands of residents of Sderot, between 10 and 12 per cent of the population of some 20,000, have moved to other parts of the country, out of range of the rocket attacks. The economic situation in the town has suffered as a result, and many businesses have been forced to close their doors. Many more residents would leave if they could afford to but they can neither sell nor rent their homes.

Emergency, relief and social workers report a high incidence of anxiety and post-traumatic stress disorder (PTSD) among children and adults alike. Dalia Yossef of the Hossen Center,

which provides psychological support and rehabilitation for the community, told Amnesty International that recurrent attacks in recent years are taking a high toll on the mental health of both children and adults in and around Sderot: *"Children are afraid to sleep on their own, to be alone, even to go to the toilet alone. They feel that their parents cannot protect them. Bed wetting is a common manifestation of their anxiety and insecurity. Their parents are similarly anxious and frustrated. It is even difficult to speak of PTSD, for as long as the rockets continue to fall the trauma is renewed daily; we are not even in a post-trauma stage."*

Amnesty International delegates spoke to several Israeli civilians suffering the consequences of Palestinian rocket attacks.

Geut Aragon, for example, a nurse at Ashkelon's Barzilai Hospital, was injured when a rocket exploded in the bedroom of her four-year-old son Nir on **15 January 2008**. He escaped unharmed but their neighbours' five-year-old daughter, **Lior Ben Schimmel**, was injured. In January 2009 Geut Aragon told Amnesty International:



Geut Aragon showing shrapnel wounds © private

"There was no siren to warn of the incoming missile. Everything went dark and I was covered in dust and for a moment I thought the computer had exploded. Then I heard Nir screaming 'mummy' but couldn't hear Lior and couldn't stand; it was as if my brain was disconnected from my body. I crawled to find Lior. I found her hand, grabbed it and dragged her out of rubble and broken metal from the roof. Nir was still standing in the hallway and had managed to push the door of the bedroom so that it was open a crack. I followed the light to the hallway and found him there. I hadn't realized that my face was covered in blood

pouring from my head injuries until I saw Nir's reaction. He stopped breathing out of fright. I carried him and Lior downstairs. It seemed like an eternity, but must have been only a few seconds.

"I was off sick for the rest of the year. I was finally able to go back to work part-time at the

end of December but the military operation in Gaza started the following day and I couldn't face it. I took leave and went to my sister, in the north, with the children.

"My 10-year-old son Itzhik is afraid to be in the bathroom alone and Nir has been wetting his bed since the attack. His hearing was affected and we still go to hospital for check-ups and we see a child psychologist. But it is difficult to move forward, as every warning siren brings back fears and stress."

4.1.3 ARMED GROUPS' RATIONALE FOR ROCKET ATTACKS

All the Palestinian armed groups carry out mortar and rocket attacks, with varying frequency. The main groups are: the 'Izz al-Din al-Qassam Brigades (Qassam Brigades), Hamas' armed wing; the Sarayat al-Quds Brigades (al-Quds Brigades), Islamic Jihad's armed wing; the Abu 'Ali Mustapha Brigades (AAMB), the armed wing of the Popular Front for the Liberation of Palestine (PFLP); the Nasser Salah al-Din Brigades, the armed wing of the Popular Resistance Committees (PRC); the al-Aqsa Martyrs' Brigades (al-Aqsa Brigades), Fatah's armed wing; and the Democratic Front for the Liberation of Palestine (DFLP).¹¹⁶

Armed groups usually claim responsibility for rocket and other attacks, although claims are often difficult to verify, with different groups seemingly claiming responsibility separately for the same attacks, and at times exaggerating the number and nature of their attacks and their results.

During Operation "Cast Lead" the Qassam Brigades claimed responsibility for most of the rockets launched into Israel, listing 345 Qassam rockets, 213 Grad rockets and 402 mortars on its website,¹¹⁷ whereas the AAMB said it launched 177 rockets and 115 mortars,¹¹⁸ the al-Aqsa Brigades 170 rockets and tens of mortars,¹¹⁹ and the al-Quds Brigades 158 rockets and 77 mortars.

The Palestinian figures of 1,063 rockets launched are significantly higher than the Israeli official figure of 776 rockets landing within Israeli territory during the 22 days of Operation "Cast Lead".¹²⁰

In their statements, leaders and spokespeople of the political and armed wings of Hamas and other Palestinian groups generally say that rocket attacks against nearby Israeli towns and villages are launched in response to killings of Palestinians and other attacks by Israeli forces in Gaza or the West Bank or in response to the Israeli blockade of Gaza. At times they mention specific Israeli attacks or assassinations of their leaders or militants, or refer to Israeli attacks or other abuses in general.

Khaled Mesh'al, the Syria-based leader of Hamas' politbureau, wrote in an open letter on 6 January 2009: *"The logic of those who demand that we stop our resistance is absurd. They absolve the aggressor and occupier – armed with the deadliest weapons of death and destruction – of responsibility, while blaming the victim, prisoner and occupied. Our modest, home-made rockets are our cry of protest to the world."*¹²¹

A PFLP spokesperson said on 17 January 2009: *"The rockets are both a practical and a symbolic representation of our resistance to the occupier. They are a constant reminder that*

the occupier is in fact an occupier, and that no matter how they may engage in sieges, massacres, fence us in, deny us the basic human needs of life, we will continue to resist and we will continue to hold fast to our fundamental rights, and we will not allow them to be destroyed. So long as one rocket is launched at the occupier, our people, our resistance and our cause is alive... The [Abu Ali Mustafa Brigades] has consistently launched multiple rockets on a daily basis..."¹²²

The al-Aqsa Brigades, in a statement dated 19 January 2009, announced that they had launched more than 170 rockets and tens of mortars "to defend our people in the Gaza Strip".¹²³

Amnesty International has repeatedly condemned Palestinian rocket attacks against Israeli civilian population centres and has raised its concerns about such attacks with leaders and members of the political and armed wings of different Palestinian factions and groups. In response, the groups have argued that they have no other weapons, nor any way of obtaining precision weapons like those used by the Israeli army. They also say that they are acting in response to Israeli attacks which have killed more than 1,000 Palestinians for each Israeli killed by rockets.

Palestinian rockets collected at Ashkelon's police station, Israel © AI



Some have argued that the attacks are aimed at Israeli military bases or positions in and around towns and villages in southern Israel and that the Israeli villages around Gaza are mostly military bases. While some of the rockets might strike military targets, which the groups would consider strategically more valuable, the argument is invalidated both by the obviously indiscriminate nature of the attacks and by the fact that whenever the rockets

strike people these are invariably civilians. Other spokespeople have argued that the rockets are rarely lethal and that their main aim is to “disturb” life in Israel so long as Israel does not allow Palestinians to have a normal life

All these arguments are inadmissible under international humanitarian law. Whether or not attacks actually result in civilian casualties, they are in violation of international law, which also prohibits attacks aimed at spreading terror among the civilian population. The patterns of attacks and statements by members and leaders of Palestinian groups also indicate that they have no qualms about launching attacks against civilians and that they in fact carry out such attacks intending to kill and injure Israeli civilians. Such attacks constitute war crimes.

4.2 CONDUCT ENDANGERING PALESTINIAN CIVILIANS

Hamas and other armed groups also endangered Palestinian civilians by failing to take all feasible precautions in the conduct of their military activities, notably by firing rockets from residential areas and storing weapons, explosives and ammunition in them. They also mixed with the civilian population, although this would be difficult to avoid in the small and overcrowded Gaza Strip, and there is no evidence that they did so with the intent of shielding themselves. The extremely high population density in Gaza, a small territory and one of the most densely populated places in the world, entails additional challenges for all the parties involved in conflict or armed confrontations.

Notwithstanding these difficulties, Hamas and other armed groups have an obligation to avoid conduct which, by intent or through recklessness, exposes the civilian population to danger, and have an obligation not to use the civilian population as a cover for their military activities. Intentionally using civilians to shield a military objective – often referred to as using “human shields” – is a war crime (see Chapter 5).

4.2.1 ROCKET LAUNCHING, FIGHTING AND WEAPONS STORAGE IN RESIDENTIAL AREAS

Hamas and other Palestinian groups endangered civilians by firing rockets from populated residential neighbourhoods. In one case, local residents told Amnesty International that Hamas fighters had fired a rocket at night from the courtyard of a government school in the centre of Gaza City during Operation “Cast Lead”, when the schools were closed, and that the fighters were killed in an Israeli air strike on the street as they were leaving the school yard. In another case, a resident saw Hamas fighters setting up a rocket launcher in the middle of a road in Gaza City at night.

In another area of Gaza City, a resident showed Amnesty International delegates a place from where a rocket had been launched: a small patch of empty land some 50m from residential houses. Television footage from the Arabic TV station al-Arabiya broadcast during Operation “Cast Lead” also showed a presenter, seemingly caught off guard, saying that she had just heard a rocket being fired from the street near the building which houses the TV station, in the centre of Gaza City.¹²⁴

However, Amnesty International has seen no evidence that rockets were launched from residential houses or buildings while civilians were in these buildings.

In Gaza, Palestinian fighters, like Israel soldiers, engaged in armed confrontations around residential homes where civilians were present, endangering them. The locations of these confrontations were mostly determined by Israeli forces, who entered Gaza with tanks and armoured personnel carriers and took positions deep inside residential neighbourhoods.

A resident of a neighbourhood in the centre of Gaza City told Amnesty International that, as Israeli forces entered Gaza and as rumours spread that they were going to advance into the centre of town, Hamas fighters located a 50mm mounted machine-gun in the street by the corner of his building. He took his children and went to sleep at his office because he had nowhere else to go, as his relatives lived in more exposed areas in the suburbs and had themselves been forced to leave their home. The following day the machine-gun had been removed. He did not know why.

As confirmed by the testimonies and photographs of Israeli soldiers published in the Israeli army magazine *Bamachaneh* and in footage available on the Israeli army website, both Israeli troops and Palestinian fighters fought each other using similar tactics, including house-to-house fighting in residential areas, some of which were largely abandoned by civilians and others where residents were trapped in their homes. Amnesty International also gathered testimonies from residents and found evidence of the presence of Israeli troops in Palestinian homes all along the eastern flank of Gaza and especially around Gaza City and in the north of Gaza.

Empty houses that were so used by either side at best sustained damage from the fighting and at worse were subsequently destroyed. In 'Izbet Abed Rabbo, a resident told Amnesty International that Palestinian gunmen had taken position in an empty house and battled Israeli soldiers who were located in tanks and on foot around the house and inside neighbouring houses. He said that in some houses Israeli soldiers were holding the residents as "human shields".

Hamas and other groups generally store weapons in civilian areas and there is no reason to believe that it was any different during Operation "Cast Lead". By doing so, it rendered such locations possible targets of attack and therefore exposed civilians who may have been present to risk. However, fighting in urban areas per se is not a violation of international humanitarian law, but the parties involved in the conduct of hostilities in an urban setting have an obligation to distinguish, and to ensure to the best of their ability, that their attacks only target military objects. Israeli forces have at their disposal a range of high-precision weapons capable of pinpoint targeting – within a metre – and recklessly attacking civilians or civilian objects simply because they are in the vicinity of fighters or other military targets cannot be justified.

4.2.2 ISRAELI ALLEGATIONS ABOUT USE OF "HUMAN SHIELDS"

The allegation that Hamas was using "human shields" was repeatedly made by Israeli government and army officials and spokespersons. In response to any questions about attacks

by their own forces against Palestinian civilians or civilian objects or about the impact of their forces' operations on the civilian population of Gaza, Israeli officials invariably responded that Hamas must be held responsible for any harm caused to civilians by Israeli attacks. Specifically, they accused Hamas of intentionally using the civilian population as "human shields" for their military activities by being based within towns and villages; storing rockets and other weapons in populated areas; firing rockets from close proximity to civilian buildings; and taking cover in civilian buildings after firing. Amnesty International asked the Israeli authorities on several occasions to provide information to substantiate its allegations about the use by Hamas of Gaza's civilians, but has yet to receive a response.

Hamas, on the other hand, makes the argument that, as a political party, a social organization and an armed group, it is based among the population throughout Gaza. Militants affiliated to other armed groups do not dispute this and indeed make similar claims for themselves. They point out that any fighting which took place in Gaza was at the behest of Israeli forces which invaded Gaza, moving with tanks and troops into residential areas, occupying civilian homes and launching attacks from these homes. They maintain that the armed confrontations in or near residential areas were aimed at resisting Israeli ground attacks and deny any policy of endangering civilians or using civilians as cover.

The groups openly acknowledge that their fighters and military facilities are present in towns and villages in Gaza, but argue that their role is to defend their communities against Israeli attacks and invasions. They said that they have no choice as to where they operate from and point to frequent Israeli attacks against civilian homes and targets where there was no presence of fighters or weapons as evidence that Israeli forces do not distinguish between military and civilian targets.

Some of the armed groups deny having fired rockets from populated areas or having stored them there, while others argue that they were merely defending their communities and that Israeli forces targeted civilians not involved in military activities and locations from which no attacks had been launched.

Amnesty International, for its part, did not find evidence that Hamas or other Palestinian groups violated the laws of war to the extent repeatedly alleged by Israel. In particular, it found no evidence that Hamas or other fighters directed the movement of civilians to shield military objectives from attacks. By contrast, Amnesty International did find that Israeli forces on several occasions during Operation "Cast Lead" forced Palestinian civilians to serve as "human shields". In any event, international humanitarian law makes clear that use of "human shields" by one party does not release the attacking party from its legal obligations with respect to civilians.

Amnesty International delegates interviewed many Palestinians who complained about Hamas' conduct, and especially about Hamas' repression and attacks against their opponents, including killings, torture and arbitrary detentions,¹²⁵ but did not receive any accounts of Hamas fighters having used them as "human shields".

In the cases investigated by Amnesty International of civilians killed in Israeli attacks, the deaths could not be explained as resulting from the presence of fighters shielding among civilians, as the Israel army generally contends. In all of the cases investigated by Amnesty

International of families killed when their homes were bombed from the air by Israeli forces, for example, none of the houses struck was being used by armed groups for military activities. Similarly, in the cases of precision missiles or tank shells which killed civilians in their homes, no fighters were present in the houses that were struck and Amnesty International delegates found no indication that there had been any armed confrontations or other military activity in the immediate vicinity at the time of the attack.

While the presence of Hamas and other fighters and weapons within civilian areas is not contested, this in itself is not conclusive evidence of intent to use civilians as "human shields". The presence of weapons in residential areas is likely, for instance, to be more the result of a growing gun culture in Gaza and the increasing internal tensions between Palestinian factions, which have led Hamas and Fatah, as well as some other groups, to keep weapons supplies close at hand to fight each other in recent years.¹²⁶

The close proximity of the military and weapons to civilian areas is also not unusual in Israel. The headquarters of the Israeli army is in a densely populated area of central Tel Aviv. In Ashkelon, Sderot, Bersheva and other towns 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 kibbutzim and villages. During Operation "Cast Lead" 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.

The placing of combatants and a variety of weapons within towns and villages by Hamas and Israel, while not in itself evidence of using "human shields", does amount to a violation of their obligation to take the necessary precautions to protect civilians under its control from the dangers of military operations "*to the maximum extent feasible*", and in particular "*avoiding locating military objectives within or near densely populated areas*". Even so, Israeli forces and Palestinian fighters were obliged at all times to apply the principle of distinction and proportionality, and take the precautions required by international humanitarian law, when launching attacks.

4.2.3 RESPONSIBILITY FOR THE SAFETY OF GAZA'S CIVILIAN POPULATION

Hamas and other Palestinian armed groups are not parties to international treaties. However, like state parties to an armed conflict, they have an obligation under international humanitarian law to take all feasible measures to ensure that the civilians under their control are not harmed by the dangers of military operations.¹²⁷

In Gaza the issue of which party exercises effective control over the civilian population is more complex than elsewhere because of the following set of circumstances:

- 1) Israel, as the occupying power, exercises effective control over Gaza's land borders, air space and territorial waters. This is of paramount importance for issues related to evacuation, as residents of Gaza cannot leave Gaza unless Israel allows them to do so.¹²⁸ During the conflict, Israel allowed foreign nationals and members of the small Christian community of Gaza to leave Gaza but this exceptional measure did not apply to the rest of Gaza's

population.¹²⁹ Internal movement within Gaza was further affected when Israeli forces took positions inside Gaza on 3 January, dividing Gaza into two sections and making movement within the Strip extremely dangerous.¹³⁰

2) Israel and the international community recognize the PA – not the de facto Hamas administration – as the entity administering the internal affairs within the Gaza Strip, even though the PA exercises little or no such function in Gaza.

3) Israel considers the whole of the Hamas de facto administration in Gaza, not just its military wing, as a legitimate target, including institutions which, though controlled by Hamas, are civilian in nature, do not directly participate in hostilities, and are de facto in charge of providing services to the population (such as the civil police, the civil defence, the emergency services and the judiciary).

4) In addition to the Qassam Brigades, Hamas' armed wing, other armed groups affiliated with other Palestinian political factions that are not under the control of – and often act in opposition to – Hamas, are also involved in the conflict (see Chapter 4.1.3 for details). The relations between the different groups vary considerably. At times some of them (the permutations vary) co-operate or even launch joint attacks, whereas at other times they act independently and on occasion they fight each other. The degree of co-operation or in-fighting between different groups does not necessarily depend on the decision of the central leadership of each group and can also depend on relations between groups at the local level. Although in recent years groups affiliated to Fatah and Hamas have often been in conflict with each other, personal relations at the local level have often overridden such considerations. Co-operation or in-fighting can also be dictated by temporary considerations. For example, when Hamas declared a ceasefire with Israel and decided to suspend rocket and other attacks, its forces and militias were at times engaged in confrontations with other groups which did not respect the ceasefire. At times of more intense Israeli attacks or incursions, in-fighting between the different groups often subsides but on occasions it increases. During Operation "Cast Lead" some Fatah fighters accused Hamas of preventing them from fighting Israeli forces while Hamas accused some Fatah supporters of "collaborating" with Israeli forces and persecuted them.¹³¹

Despite these complicating factors, Hamas, as the de facto ruling authority within the Gaza Strip, shares responsibility for the welfare of civilians in the areas that they effectively control.

5. INTERNATIONAL LAW AND THE CONFLICT IN GAZA AND SOUTHERN ISRAEL

Several bodies of international law apply to the conflict in Gaza and southern Israel during the period of Operation "Cast Lead".

- International humanitarian law, also known as the laws of armed conflict, includes rules protecting civilians and other individuals *hors de combat*, as well as rules regulating the means and methods of warfare. It also includes rules imposing obligations on the power occupying a territory. International humanitarian law binds all parties to an armed conflict, including non-state armed groups.
- International human rights law, including civil, cultural, economic, political and social rights, applies both in peacetime and during armed conflict and is legally binding on states, their armed forces and other agents. It establishes the right of victims of serious human rights violations to remedy, including justice, truth and reparations.
- International criminal law establishes individual criminal responsibility for certain violations and abuses of international human rights and international humanitarian law, such as war crimes, crimes against humanity and genocide, as well as torture, extrajudicial executions and enforced disappearance.

5.1 INTERNATIONAL HUMANITARIAN LAW

International humanitarian law is a body of rules and principles whose central purpose is to limit, to the maximum extent feasible, human suffering in times of armed conflict. It sets out standards of humane conduct and limits the means and methods of conducting military operations. It seeks to protect primarily those who are not participating in hostilities, notably civilians, as well as combatants who are sick, wounded or captured.

The four Geneva Conventions of 1949 and their two Additional Protocols of 1977 are the principal instruments of international humanitarian law. Israel is a party to the 1949 Geneva Conventions but is not a party to the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Additional Protocol I) and the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Additional Protocol II).

Nonetheless, Israel is bound by the rules in Additional Protocols I and II, which are part of customary international law and therefore obligatory for all parties to an armed conflict to follow. Hamas is not a party to international treaties, but is bound by customary rules of international humanitarian law applicable to all parties to an armed conflict. The fundamental provisions of Additional Protocol I, including the rules cited below in Chapter 5.1.3, are considered part of customary international humanitarian law and are, therefore, binding on all parties to a conflict, whether international or non-international.

5.1.1 INTERNATIONAL OR NON-INTERNATIONAL ARMED CONFLICT

The occupation of the Gaza Strip is a consequence of an international armed conflict and it is governed by international humanitarian law applicable to belligerent occupation (see below Chapter 5.1.2), as well as human rights law (see below Chapter 5.3).

Under normal circumstances, the occupying power is bound by law enforcement standards derived from human rights law when maintaining order in occupied territory. For example, these would require the occupying power to seek to arrest, rather than kill, members of armed groups suspected of carrying out attacks, and to use the minimum amount of force necessary in countering any security threat.

However, if a situation arises in which fighting inside the occupied territory reaches the requisite scale and intensity, then international humanitarian law rules governing humane conduct in warfare apply alongside relevant human rights law. When fighting breaks out during a long-term occupation between the occupying power (a state) and non-state armed groups, it is generally qualified as a non-international armed conflict and such fighting is governed by the rules governing conduct of hostilities (see below Chapter 5.1.3). However, even when a conflict has broken out, which legal standards apply will depend on the circumstances of a particular situation. For example, in the case of a demonstration during a conflict, law enforcement standards and human rights law would govern the conduct of forces policing the demonstration.

The qualification of an armed conflict as international or non-international is particularly relevant with respect to the distinction between civilians and combatants (see below), but the rules on the conduct of hostilities are essentially the same.

5.1.2 LAW OF OCCUPATION

Israel is the occupying power in the Gaza Strip. In 2005, as part of what it termed "disengagement" from Gaza, Israel removed its settlements and settlers. Yet despite the redeployment of its troops in 2005, the Israeli army has retained effective control over the Gaza Strip. Israel maintains sole control of Gaza's airspace and territorial waters and does not allow any movement of people or goods in or out of Gaza via air or sea. Israel also continues to exercise a degree of control over Gaza's border with Egypt and Israeli officials have repeatedly made it clear that this border can only be reopened within the framework of a joint agreement with the PA and Egypt.¹³² Israel also continues to control electricity, water and telecommunications in Gaza. It has regularly conducted raids in Gaza, often arresting

"wanted" men; and carrying out so-called "targeted killings", in air strikes which have claimed a high toll on civilians.

As the occupying power in Gaza, Israel has specific obligations under international humanitarian law. It must comply with the provisions of international humanitarian law applicable to belligerent occupation, including:

- specific provisions of the Hague Convention (IV) respecting the Laws and Customs of War on Land and its annexed Regulations respecting the Laws and Customs of War on Land of 18 October 1907 (Hague Regulations);
- the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (Fourth Geneva Convention);¹³³
- customary rules of international humanitarian law applicable to belligerent occupation, including the rule protecting persons in the power of a party to the conflict, detailed in Article 75 of Additional Protocol I.

Article 42 of the Hague Regulations defines occupation: *"Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised."* In such situations, the occupying power *"shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country."* (Hague Regulations, Article 43)

The Fourth Geneva Convention imposes obligations on an occupying power in relation to the inhabitants of the occupied territory, who are entitled to special protection and humane treatment. Among other things, the rules prohibit the occupying power from wilfully killing, ill-treating or deporting protected persons. The occupying power is responsible for the welfare of the population under its control. This means it must ensure that law and order is maintained and basic necessities are provided for.

Measures of control or security

Measures of control or security must be *"necessary as a result of the war"* (Article 27, Fourth Geneva Convention). However, *"regulations concerning occupation... are based on the idea of the personal freedom of civilians remaining in general unimpaired... What is essential is that the measures of constraint they adopt should not affect the fundamental rights of the persons concerned... those rights must be respected even when measures of constraint are justified."* (ICRC Commentary to Article 27 of the Fourth Geneva Convention).

Destruction of homes and property

As the occupying power, Israel is forbidden from destroying the property of Palestinians in the West Bank and Gaza Strip, unless it is militarily necessary to do so.

Article 53 of the Fourth Geneva Convention provides that: *"Any destruction by the occupying power of real or personal property belonging individually or collectively to private persons, or*

to the State, or to other public authorities, or to social or co-operative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations."

Israel's aerial bombardment, artillery shelling and ground assault have caused extensive destruction of civilian property in the Gaza Strip. There has also been large-scale destruction by Israeli forces after the fighting, particularly in areas in the north and east of the Gaza Strip that had already suffered from illegal house destruction by Israeli forces on a mass scale prior to the "disengagement" in 2005.¹³⁴

According to Article 147 of the Fourth Geneva Convention, *"extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly"* is a grave breach of the Convention and hence a war crime.

Food, medical supplies and relief

As the occupying power, Israel has an obligation to ensure the population of Gaza have adequate access to food, essential supplies, medicine and medical care.

According to Article 55 of the Fourth Geneva Convention, the occupying power *"has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate."*

Article 56 states: *"To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory... Medical personnel of all categories shall be allowed to carry out their duties."*

Article 59 is particularly relevant to the fighting during Operation "Cast Lead". It requires that *"If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal."*

Collective punishment

The prolonged blockade of Gaza, which had already been in place for some 18 months before Operation "Cast Lead" began, amounts to collective punishment of its entire population.

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

As explained in the authoritative commentary of the ICRC: *"This paragraph then lays a prohibition on collective penalties... penalties of any kind inflicted on persons or entire groups of persons, in defiance of the most elementary principles of humanity, for acts that*

these persons have not committed."¹³⁵

5.1.3 RULES GOVERNING THE CONDUCT OF HOSTILITIES

Civilians and members of armed groups

Civilians are defined in international humanitarian law as those who are not combatants. However, international humanitarian law provides a definition of combatant only with respect to international armed conflict. There are no rules regulating combatant, or prisoner of war (POW), status with respect to non-international armed conflicts.

In the context of the conflict in Gaza and southern Israel during the period of Operation "Cast Lead", Amnesty International uses the term civilians to describe people who were not taking direct part in hostilities.¹³⁶ According to Additional Protocol I, *"in case of doubt whether a person is a civilian, that person shall be considered to be a civilian."* (Article 50(1))

Political leaders involved in military strategy and planning may lose their immunity from attack for the duration of their participation in hostilities. However, individuals who are not taking direct part in hostilities, even if members or supporters of political groups with military wings which are involved in the fighting, are civilians who must not be made the object of attacks.

Prohibition on direct attacks on civilians and civilian objects – the principle of distinction

Article 48 of Additional Protocol I sets out the "basic rule" regarding the protection of civilians – the principle of distinction. This is a cornerstone of international humanitarian law: *"In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives."*

According to the Rome Statute of the International Criminal Court (ICC), intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities is a war crime.¹³⁷

Under Article 51(3) of Additional Protocol I, civilians remain protected *"unless and for such time as they take a direct part in hostilities"*.

Article 52(1) of Additional Protocol I provides that *"Civilian objects are all objects which are not military objectives."* Article 52(2) defines military objectives as *"those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage."* Military advantage may not be interpreted so broadly as to render the rule ineffective. To justify under this provision attacks aimed at harming the economic wellbeing of a state or demoralizing the civilian population in order to weaken the ability to fight would be to distort the legal meaning of military advantage, undermine fundamental principles of international humanitarian law, and pose a severe

threat to civilians.

Objects that do not meet these criteria are civilian objects. In cases where it is unclear whether a target is used for military purposes, *"it shall be presumed not to be so used"* (Article 52(3)).¹³⁸

No states, and very few armed political groups, admit to deliberately targeting civilians. Direct attacks on civilians are often justified by denying that the victims are actually civilians. Civilian immunity is also undermined by the manner in which definitions of military objectives and civilian objects are interpreted by attacking forces.

Intentionally directing attacks against the civilian population as such or against individual civilians not taking a direct part in hostilities is a war crime. Intentionally directing attacks against civilian objects constitutes a war crime.

Prohibition on indiscriminate or disproportionate attacks

Article 51(4) of Additional Protocol I prohibits indiscriminate attacks, which are those *"of a nature to strike military objectives and civilians or civilian objects without distinction."*

Disproportionate attacks, a type of indiscriminate attack, are also those that *"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."* (Article 51(5b))

Intentionally launching a disproportionate attack is a war crime.¹³⁹ Launching an indiscriminate attack resulting in loss of life or injury to civilians or damage to civilian objects is also a war crime.¹⁴⁰ In addition, the extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly is a war crime.¹⁴¹

Precautions in attack

Article 57 requires all parties to exercise constant care *"to spare the civilian population, civilians and civilian objects."* Article 57(2) stipulates:

"(a) those who plan or decide upon an attack shall:

"(i) do everything feasible to verify that the objectives to be attacked are neither civilians nor civilian objects and are not subject to special protection but are military objectives within the meaning of paragraph 2 of Article 52 and that it is not prohibited by the provisions of this Protocol to attack them;

"(ii) take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects;

"(iii) refrain from deciding to launch any attack 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;

“(b) an attack shall be cancelled or suspended if it becomes apparent that the objective is not a military one or is subject to special protection or that the attack 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;

“(c) effective advance warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit.”

Precautions in defence and “human shields”

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.

Additional Protocol I requires each party to avoid, to the maximum extent feasible, locating military objectives within or near densely populated areas (Article 58(b)). The ICRC's authoritative commentary on this provision explains that the use of the term “feasible” is used to illustrate *“the fact that no one can be required to do the impossible. In this case it is clear that precautions should not go beyond the point where the life of the population would become difficult or even impossible.”* And it notes: *“Moreover, a Party to the conflict cannot be expected to arrange its armed forces and installations in such a way as to make them conspicuous to the benefit of the adversary.”*

International humanitarian law also expressly prohibits the use of tactics such as using “human shields” to prevent an attack on military targets. According to Article 28 of the Fourth Geneva Convention, *“The presence of a protected person may not be used to render certain points or areas immune from military operations.”* Israel has ratified the Convention, which is also recognized as reflecting customary international law and therefore binding on Israel, Hamas and other Palestinian armed groups. In an accompanying commentary, the ICRC defined the scope of the provision: *“The prohibition is expressed in an absolute form and applies to the belligerents' own territory as well as to occupied territory, to small sites as well as to wide areas.”* The prohibition against the use of “human shields” is further clarified in Article 51(7) of Additional Protocol I. It states: *“Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations.”* Intentionally shielding a military objective using civilians is a war crime.¹⁴²

However, the Protocol also makes it clear that even if one side is shielding itself behind civilians, such a violation *“...shall not release the Parties to the conflict from their legal obligations with respect to the civilian population and civilians.”*

Furthermore, Article 50(3) 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."

As indicated by the ICRC in its commentary, *"In wartime conditions it is inevitable that individuals belonging to the category of combatants become intermingled with the civilian population, for example, soldiers on leave visiting their families. However, provided that these are not regular units with fairly large numbers, this does not in any way change the civilian character of a population."*

Prohibition on reprisal

International humanitarian law is not based on reciprocity. The fact that one party may have violated the laws of armed conflict cannot serve as a basis for an opposing party to engage in unlawful acts, whether to bring the offending party into compliance, or as a means of retaliation or retribution.

Attacks against the civilian population or civilians or against civilian objects by way of reprisals are expressly prohibited by international humanitarian law (Articles 51(6) and 52(1) of Additional Protocol I).

Survival of the population, attacks on medical personnel and humanitarian access

Attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population is prohibited (Additional Protocol I, Article 54(2)). The parties to the conflict must allow and facilitate rapid and unimpeded passage of impartial humanitarian relief (Additional Protocol II, Article 18). They must respect and protect medical personnel and their means of transport (Additional Protocol I, Articles 15 and 21). The specific duties of an occupying power in this regard are discussed in Chapter 5.1.2.

Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance mission in accordance with the UN Charter is a war crime. Intentionally directing attacks against medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions is a war crime. Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions is a war crime.¹⁴³

Weapons

International humanitarian law prohibits the use of weapons that are by nature indiscriminate and weapons that are of a nature to cause superfluous injury or unnecessary suffering. The ICRC Commentary to the Protocols mentions *"long-range missiles which cannot be aimed exactly at the objective"* as an example of indiscriminate weapons.

Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons (a Protocol additional to the 1980 UN Convention on the Prohibition or Restrictions on the Use of Certain Conventional Weapons) prohibits the use of incendiary weapons against civilians. This is a rule of customary international law, therefore binding on Israel even if it is not party to Protocol III. Of course, no weapon is supposed to be used against civilians, but this

prohibition is recognition of the particular dangers and consequences of using weapons with incendiary properties in the vicinity of civilians. According to the ICRC study of customary international humanitarian law (Rule 85), *"The anti-personnel use of incendiary weapons is prohibited, unless it is not feasible to use a less harmful weapon to render a person hors de combat."*

5.2 INTERNATIONAL HUMAN RIGHTS LAW

As affirmed by the International Court of Justice and the UN Human Rights Committee, human rights law remains applicable during times of armed conflict, in a position complementary to international humanitarian law.¹⁴⁴ Israel's actions in the Occupied Palestinian Territories (OPT) are bound by its obligations under the international human rights treaties that it has ratified, as well as customary rules of international human rights law. Treaties ratified by Israel include: the International Covenant on Economic, Social and Cultural Rights (ICESCR); the International Covenant on Civil and Political Rights (ICCPR); the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Rights of the Child.

As the UN Human Rights Committee has made clear, the human rights obligations of states in respect of the ICCPR apply extraterritorially.¹⁴⁵ The ICESCR provides for no explicit limitations with respect to territorial jurisdiction. This means that Israel's obligations under international human rights law apply also to the occupied territory under its control.

The ICESCR does not allow for derogation, even in times of emergency, and allows for only those limitations *"as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society."* As the Committee has made clear, any limitations must be proportionate and *"the least restrictive alternative must be adopted where several types of limitations are available."*¹⁴⁶

As international human rights law is applicable in times of armed conflict alongside international humanitarian law, the same conduct can constitute a breach of both international human rights law and international humanitarian law.

During the conflict in Gaza, the human rights obligations that were breached include the obligations to respect, protect and promote: the right to life (ICCPR, Article 6);¹⁴⁷ the right to adequate food and housing (ICESCR, Article 11); the enjoyment of the highest attainable standard of physical and mental health (ICESCR, Article 12), which also includes the right to water; and the right to education (ICESCR, Article 13).¹⁴⁸ Actions that were aimed towards or were likely to result in the destruction or impairment of infrastructure necessary for the enjoyment of those rights, including hospitals and schools, are violations for which state parties can be held responsible.

5.2.1 RIGHT TO HOUSING AND FORCED EVICTIONS

With respect to the right to housing, certain actions in the war – namely the widespread destruction of hundreds of homes – may constitute unlawful forced evictions, a breach of Article 11 of the ICESCR.

The UN Committee on Economic, Social and Cultural Rights defines “forced evictions” as *“the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”*¹⁴⁹ The Committee includes among such evictions those resulting from *“international armed conflicts, internal strife and communal or ethnic violence.”*¹⁵⁰

5.3 INTERNATIONAL CRIMINAL LAW

Individuals, whether civilians or military, can be held criminally responsible for certain violations of international human rights law and international humanitarian law.

All states have an obligation to investigate and, where enough admissible evidence is gathered, prosecute genocide, crimes against humanity and war crimes, as well as other crimes under international law such as torture, extrajudicial executions and enforced disappearances.

5.3.1 WAR CRIMES

Grave breaches of the Geneva Conventions and Additional Protocol I and most other serious violations of international humanitarian law are war crimes. Definitions of these crimes are included in the Rome Statute. The list of war crimes in Article 8 of the Rome Statute basically reflected customary international law at the time of its adoption, although they are not complete and a number of important war crimes are not included.

Article 86(1) of Additional Protocol I requires: *“[P]arties to the conflict shall repress grave breaches, and take measures necessary to suppress all other breaches of the [1949 Geneva] Conventions or of this Protocol which result from a failure to act when under a duty to do so.”*

5.3.2 CRIMES AGAINST HUMANITY

According to the Rome Statute, certain acts, if directed against a civilian population as part of a widespread or systematic attack, and as part of a state or organizational policy, amount to crimes against humanity. Such acts include, among others, murder, extermination, enslavement, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, torture, rape and other sexual crimes, and enforced disappearances.

Crimes against humanity can be committed in either time of peace or during an armed conflict. In the past, Amnesty International has found evidence that both Hamas and Israel

have been responsible for committing crimes against humanity. The organization has stated that the campaign of suicide bombings and other attacks against civilians by Hamas and other Palestinian armed groups amounted to crimes against humanity. Amnesty International has also concluded that certain practices by Israeli forces in the OPT, such as deportations, collective punishment and unlawful killing of civilians, amounted to crimes against humanity.

5.3.3 RESPONSIBILITY OF SUPERIORS AND COMMANDERS

Military commanders and civilian superiors can be held responsible for the acts of their subordinates. Article 86(2) of Additional Protocol I, which imposes a single standard for military commanders and civilian superiors, reflects customary international law. It states:

"The fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from penal or disciplinary responsibility, as the case may be, if they knew, or had information which should have enabled them to conclude in the circumstances at the time, that he was committing or was going to commit such a breach and if they did not take all feasible measures within their power to prevent or repress the breach."

Thus, in analyzing the violations committed in this conflict, it is important to examine the chain of command, both with regard to members of government armed forces and their civilian superiors and with regard to all levels of Hamas.

5.3.4 SUPERIOR ORDERS

Superior orders cannot be invoked as a defence for violations of international humanitarian law, but they may be taken into account in mitigation of punishment. This principle has been recognized since the Nuremberg trials after World War II and is now part of customary international law.

5.4 ACCOUNTABILITY

States have an obligation to respect, protect and fulfil the right of victims of human rights violations to an effective remedy.¹⁵¹ This obligation includes three elements:

Justice: investigating past violations and, if enough admissible evidence is gathered, prosecute the suspected perpetrators;

Truth: establishing the facts about violations of human rights that occurred in the past;

Reparation: providing full and effective reparation to the victims and their families, in its five forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

Principle VII of the Basic principles and guidelines on the right to a remedy and reparation

for victims of gross violations of international human rights law and serious violations of international humanitarian law explains:

*"Remedies for gross violations of international human rights law and serious violations of international humanitarian law include the victim's right to the following as provided for under international law: (a) Equal and effective access to justice; (b) Adequate, effective and prompt reparation for harm suffered; and (c) Access to relevant information concerning violations and reparation mechanisms."*¹⁵²

With respect to past human rights violations, states must ensure that the truth is told, that justice is done and that reparation is provided to all the victims.

5.4.1 JUSTICE

There are several possible methods for bringing to justice those responsible for crimes under international law, in proceedings which meet international standards of fairness and do not result in the death penalty.

- (a) By Israel: Each state party to the conflict has an obligation to investigate all crimes under international law and, whenever there is sufficient admissible evidence, prosecute the person suspected of those crimes. However, even though in theory it is possible for Palestinians residents in Gaza to lodge complaints in Israeli courts against Israeli forces for unlawful killings and other violations, in practice there is little if any chance that their complaints would be investigated and that the perpetrators would be brought to justice.
- (b) By the Palestinian side: The Gaza Strip falls under the jurisdiction of the PA according to the Oslo Accords (pursuant to which the PA was established). However, in June 2007, after armed confrontations with PA forces, Hamas established a de facto administration in Gaza and has since controlled internal affairs there, including the administration of justice. The Hamas de facto administration has neither prosecuted nor shown any intention to prosecute members of its armed wing or members of other armed groups responsible for firing rockets into southern Israel. On the contrary, during periods when they are not committed to a ceasefire with Israel, Hamas leaders promote such unlawful attacks.
- (c) By other states: Other states should exercise their obligations to conduct prompt, thorough, independent and impartial criminal investigations of anyone suspected of crimes under international law during the conflict. If there is sufficient admissible evidence, states should prosecute the suspect or extradite him or her to another state willing and able to do so in fair proceedings which do not result in the imposition of the death penalty or surrender him or her to an international criminal court which has jurisdiction. In addition to being obliged to exercise universal jurisdiction for grave breaches of the Geneva Conventions and of Additional Protocol I, as well as over torture, states are permitted to exercise universal jurisdiction for other crimes under international law. If there is sufficient admissible evidence states should also prosecute, extradite the suspects to another state willing and able

to try them or surrender them to an international criminal court.

- (d) By the International Criminal Court (ICC): Israel has not ratified the Rome Statute. However, Israel could recognize the ICC's jurisdiction on their territories by making a declaration under Article 12(3) of the Rome Statute, or the situation in Israel and the OPT could be specifically referred to the Court by the UN Security Council, in accordance with Article 13(b) of the Rome Statute. The ICC Prosecutor is also examining whether the PA has standing as a state to accept ICC jurisdiction.

Other possible investigation mechanisms which could be put in place include:

- An investigation established by the UN Security Council. This would carry the greatest authority and could also facilitate referral of the situation to the ICC (as in the case of Darfur), if deemed appropriate.
- An investigation established by the UN Secretary-General, which could also be backed by the UN Security Council. In its Resolution 1405 of 2002, the Security Council supported the UN Secretary-General's establishment of a fact-finding team to investigate killings of civilians and destruction of homes and other property in the Jenin refugee camp in April 2002.
- An investigation by the International Humanitarian Fact-Finding Commission (IHFFC), a permanent body of independent experts provided for by Article 90 of Additional Protocol I to investigate allegations of serious violations of international humanitarian law. However, both parties to the conflict would have to accept the Commission's competence and request that it investigate alleged violations. Since its establishment the IHFFC has never actually conducted any inquiry.

5.4.2 STATES AND REPARATIONS

States must respect, protect and promote the right of victims and their families to seek and obtain full reparations. The right to reparation of individual victims is well established in international human rights law and standards as a key element of the right to a remedy contained in international and regional human rights treaties.¹⁵³

The Customary International Humanitarian Law study by the ICRC concludes in Rule 150: "*A state responsible for violations of international humanitarian law is required to make full reparations for the loss or injury caused.*"¹⁵⁴

In addition, the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the UN General Assembly in 2005 (Resolution 60/147 of 16 December 2005), enshrine the duty of states to provide effective remedies, including reparation to victims. This instrument sets out the appropriate form of reparation, including, in principles 19-23, restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.

5.4.3 ARMED GROUPS AND REPARATIONS

The ICRC notes that armed groups are themselves required to respect international humanitarian law. While the question as to whether armed groups are under an obligation to make full reparation for violations of international humanitarian law is unsettled,¹⁵⁵ practice indicates that such groups are required to provide a measure of appropriate reparation.¹⁵⁶

6. LIMITED INQUIRIES TO DATE

6.1 ISRAELI ARMY PROBES

On 22 April the Israeli army distributed a briefing to journalists, which states that *"All findings are to be used as background information to be attributed to the reporter only"*. According to a statement published on the Israeli army's website the media briefing contains the conclusions of five investigative teams, headed by officers with the rank of colonel, assigned to investigate events relating to the conduct of IDF soldiers during Operation "Cast Lead" in relation to: (1) claims regarding incidents where UN and international facilities were fired upon and damaged; (2) incidents involving shooting at medical facilities, buildings, vehicles and crews; (3) claims regarding incidents in which many uninvolved civilians were harmed; (4) the use of weaponry containing phosphorus; and (5) damage to infrastructure and the destruction of buildings by ground forces.¹⁵⁷

The army asserts that its forces "operated in accordance with international law" and that there was only "a very small number of incidents in which intelligence or operational errors took place during the fighting. These unfortunate incidents were unavoidable and occur in all combat situations, in particular of the type which Hamas forced on the IDF, by choosing to fight from within the civilian population".

The information made public only refers to a handful of cases and lacks crucial details. It mostly repeats claims made by the army and the authorities many times since the early days of Operation "Cast Lead", but does not provide evidence to back up the allegations. It does not even attempt to explain the overwhelming majority of civilian deaths nor the massive destruction caused to civilian buildings in Gaza.

In the absence of the necessary evidence to substantiate its allegations, the army's claims appear to be more an attempt to shirk its responsibilities than a genuine process to establish the truth. Such an approach lacks credibility.¹⁵⁸

6.2 INTERNATIONAL INQUIRIES

A **UN Board of Inquiry** into attacks on UN facilities and personnel in Gaza during Operation "Cast Lead" was set up by the UN Secretary-General in February 2009. It reported to the UN Secretary-General who made public a summary of the report on 4 May 2009. The UN Board of Inquiry concluded that seven of the nine attacks it investigated, causing death, injuries and damage, were committed by the Israeli army and at least one was committed by Palestinian armed groups.

A key recommendation of the Board is the need for a comprehensive impartial inquiry into all alleged violations of international humanitarian law in Gaza and southern Israel by the Israeli army and Palestinian armed groups during the 22-day conflict (27 December 2008 to 18 January 2009). However, the UN Secretary-General announced, in his letter of 4 May 2009 to the Security Council President accompanying the summary of the Board of Inquiry report, that he does not plan any further inquiry.

An **international independent fact-finding mission** was established by the UN Human Rights Council at its ninth special session on 12 January 2009 with a mandate to investigate only Israeli violations in Gaza, and not violations committed by Palestinian armed groups. However, in April, the newly appointed Chair of the fact-finding mission, Justice Richard J. Goldstone, and the President of the Human Rights Council indicated that the fact-finding mission would investigate violations of international law committed by all parties, including Palestinian armed groups. Israeli officials stated that Israel would not co-operate with the fact-finding mission and subsequently did not grant it access to Israel or Gaza. In June the mission travelled to Gaza via Egypt.

The international community, notably member states of the UN Security Council have to date failed to take any concrete steps to ensure co-operation by the Israeli authorities with the Goldstone fact-finding mission, or to put in place any other independent investigation.

The ICC Prosecutor is examining whether the PA has the status required by the Rome Statute to recognize the jurisdiction of the ICC over acts committed on the territory of Palestine since 1 July 2002.

RECOMMENDATIONS

Given the evidence of serious and extensive violations of international law by all parties to the conflict during Operation "Cast Lead", and the lack of any meaningful measures towards accountability by either Israeli or Palestinian authorities, there is still a need for a full, independent and impartial investigation and for appropriate measures to bring perpetrators to justice and provide reparation to the victims.

Amnesty International calls on the **international community** to take the following actions:

- It should provide full support to the **international independent fact-finding mission** established by the UN Human Rights Council, led by Justice Richard Goldstone, which has taken on as its mandate to investigate violations of international law by all parties and is due to report in the coming months. The report of the mission's findings should include recommendations aimed at ending and preventing further violations and at ensuring justice, truth and full reparations for the victims, including restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition.

In order to allow the mission to perform its tasks effectively, it must be provided with sufficient resources to accomplish all its tasks effectively and promptly; obtain access to all relevant documents, other evidence and persons; and be in a position to protect from reprisals all persons who provide information.

- It should impose immediately a comprehensive **UN Security Council arms embargo** on Israel, Hamas and other Palestinian armed groups until effective mechanisms are in place to ensure that weapons or munitions and other military equipment will not be used to commit serious violations of international human rights law and humanitarian law.

- It should act immediately at the level on individual states to **suspend all transfers of military equipment, assistance and munitions**, as well as those which may be diverted, to Israel, Hamas and other Palestinian armed groups until there is no longer a substantial risk that such equipment will be used for 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.

- Also at the level of individual states, it 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 alleged perpetrators and bring them to justice in proceedings that fully respect international fair trial standards.

Amnesty International calls on the **Israeli authorities** to:

- ensure national, impartial and thorough investigations, in accordance with international standards, of the evidence indicating that its forces committed serious violations of international human rights and humanitarian law during the conflict, including war crimes,

and wherever there is sufficient admissible evidence, prosecute any alleged perpetrator in proceedings that fully respect international fair trial standards;

- revise its interpretation of the rules and principles relating to the concepts of military objective, military advantage and proportionality, to ensure that these concepts are fully consistent with international humanitarian law;
- ensure that the Israeli military comply fully with the duty to take precautionary measures when carrying out attacks, as well as in defence, and do not carry out attacks as a form of collective punishment;
- publicly commit not to use artillery and white phosphorus weapons in densely populated areas;
- provide full reparations for the consequences of its unlawful acts and omissions;
- immediately end the blockade on the Gaza Strip, which is collectively punishing the entire population of Gaza, in breach of Israel's obligations under international humanitarian and human rights law;
- co-operate fully with the international independent fact-finding mission established by the UN Human Rights Council, led by Richard Goldstone; and with other international investigations into violations of international law by all the parties to the conflict;
- ratify Additional Protocol I of the Geneva Conventions without reservations and make a declaration under Article 90 accepting the competence of the International Humanitarian Fact-Finding Commission;
- ratify the Rome Statute of the ICC, without making a declaration under Article 124 – which would exclude for seven years the jurisdiction of the Court over war crimes – and making a declaration pursuant to Article 12(3) that its jurisdiction encompasses the Operation "Cast Lead".

Amnesty International calls on the **Hamas de facto administration** to:

- publicly renounce its policy of unlawful rocket attacks against civilian population centres in Israel;
- ensure that no armed group operating in the areas under its de facto control carries out rocket attacks against Israeli civilians or commits other violations of international humanitarian law;
- ensure that Hamas' fighters comply fully with the need to take precautionary measures in attacks and in defence, including the need to distinguish themselves from non-combatants to the maximum extent feasible;
- undertake to hold accountable those responsible for the rocket attacks, according to internationally recognized fair trial standards and without recourse to the death penalty

- co-operate fully with the international independent fact-finding mission established by the UN Human Rights Council, led by Richard Goldstone; and with other international investigations into violations of international law by all the parties to the conflict.

APPENDIX 1: FURTHER CASES OF PALESTINIAN CIVILIAN CASUALTIES

All but two of the attacks detailed in this section involve the use of precision weapons, such as missiles fired by drones, guided bombs dropped by F-16 aircraft, and tank rounds. One attack was by ground troops using small arms fire, another involved flechette rounds. As with many of the cases of civilian casualties included in the main body of the report, Israeli authorities have failed to provide explanation of why its forces carried out attacks which appear to have deliberately targeted civilians.

More than 30 members of the al-Kurdi family managed to flee their home, in the **Yarmouk district of Gaza City**, moments before it was bombed by an Israeli F-16 aircraft and reduced to rubble on **14 January 2009** at 3.50 am. However, two neighbours, 81-year-old **Ahmad Mustapha Miqdad** and **Usama Kayed Abu Jayab**, 45, were killed and some 40 family members and neighbours were injured in the strike. Zuheir al-Kurdi told Amnesty International:

"We were more than 30 people in the house, the 24 of us who lived there and my sister and her husband and their six children, who were staying with us. It was a miracle that we managed to get out. We had been woken up by the noise of shelling and we rushed outside and were going to leave because we did not want to get trapped in the house if the fighting was going to move closer to our area; but we did not expect that the house would be bombed. When the first missile hit the house my brother got trapped under the debris and me and another brother went back inside the house to help him and we carried him outside. Just as we left the house a massive bomb struck the house, destroying it completely. Me and my brother went back to get my other brother, who had been injured in the first strike and we had just got out when the house was bombed and brought down into the rubble you see now. The house was first struck by a missile on 2 January at 3pm, when the Israeli army bombed the house of the Dababseh family, two houses along on the opposite side of the road. The neighbours told us that on 4 January they had heard on TV report that the Israeli army had admitted that a missile had hit our house by mistake. We don't understand why our home was targeted; we didn't expect that at all."

The missile fired at the house immediately before the bombardment which destroyed the house was seemingly a "warning" missile. However, had the family not been already up and preparing to leave the house because of the nearby shelling, they would not have managed to leave the house so quickly before the main strike and many might have been killed.

The home of the **Kishku** family was bombed on the second day of Operation "Cast Lead", on **28 December 2008**. Just after 7pm an Israeli F-16 dropped a bomb on the three-storey house in the **al-Zaytoun neighbourhood of Gaza City**. The whole family was at home: 'Abdallah Kishku, aged 49, his wife Sabah, 49, and their five children, daughters Fatma, Latifa and Ibtihal, aged 18, 16 and seven respectively, and sons Mohammed, 11, and Talal,

24, and Talal's wife Maysa, 21, and their two daughters, Islam and Ayat, aged one and three years respectively. 'Abdallah Kishku told Amnesty International: *"There was no electricity and we were all sitting in the patio, huddled around the fire. We had just had dinner and Maysa had gone into the house to make camomile tea and after a while Ibtihal followed her to help her. They were both in the kitchen, on the second floor, when the house was bombed. They were both killed. My wife, who was sitting with us in the patio, was trapped under a supporting pillar which fell across her chest; she sustained grave internal stomach and chest injuries, a broken hip and a broken leg and was taken to Egypt for treatment. I speak to her on the phone; she is traumatized and in denial and still does not know that our little girl is dead."*

The other members of the family were trapped under the falling rubble but escaped with light injuries. They only escaped death because they were outside the house, which was completely destroyed. The family had bought the house earlier in the year and had been living there for only six months.

In the **Yebna refugee camp** in **Rafah**, in the south of Gaza, the home of the **al-Absi** family was bombed by an F-16 aircraft at about 1am on **29 December 2008**, as the 10 members of the family were asleep. Three of the family's children – **Sidqi**, aged four, **Ahmad**, 10, and **Muhammad**, 12 – were killed and their four sisters and their parents were injured, some of them very seriously. The children's mother, 41-year-old Afaf, remained in a coma in a hospital in Egypt (at the time of writing), and her 15-year-old daughter Zakya still requires further reconstructive surgery to her left arm. Two-year-old Naama was thrown by the force of the blast onto the roof of the adjacent house. Only one of the children, who was sleeping in a room further away from the main impact of the strike escaped without injury. One of the adjacent houses, that of the al-Kurd family, was also partially destroyed. The 10 members of the family were visiting relatives and thus escaped injury. One room of another adjacent house was also damaged. A young couple and their baby who were sleeping in the room sustained light injuries.

On **4 January 2009** at 11.30am 13-year-old **Mahmoud Khaled al-Mashrawi** and his 17-year-old cousin **Ahmad Khader Sbeih** were playing on the roof terrace of Mahmoud's home, in the **Yarmouk district of Gaza City**, when they were struck by a missile from a drone. Ahmad was killed instantly and Mahmoud was seriously injured and died a few days later.

Six-year-old **Anwar Salman Abu 'Aita**, his cousins **Ahmad**, aged 16, and **Malak**, aged two, were playing in the street near their home in **Jabalialia**, in northern Gaza, while Anwar's mother, Zakia Abu Aita, sat watching them, when they were hit by a missile fired from a drone. The three children and Ahmad's mother were killed. Anwar's father told Amnesty International: *"It is impossible to keep children inside the whole time. That day [16 January] was relatively calm, and there was talk that there would soon be a ceasefire (which was announced the following evening). Anwar was playing in the street with his cousins Ahmad and Malak, and Anwar's mother sat and watched them. It was 3pm; it was quiet and people were walking around – nobody was expecting anything; then suddenly a missile from a drone killed them. Ahmad was in his 11th year at school; he wanted to be a doctor."*

A few days earlier, on **14 January 2009**, at about 6.30pm, a missile struck two children riding their bicycles in **al-Qarara**, near Khan Yunis, in southern Gaza. **Izzeddine 'Adel al-**

Farra, aged 13, was killed and his 17-year-old cousin 'Abdelghani Mahmoud al-Farra was gravely injured. At the boys' home Amnesty International delegates found their bicycle frames full of tiny square holes from the missile's cubical shrapnel and at the site of the strike a deep hole in the road.

On **10 January 2009** at about 11.30am a missile strike killed seven members of the Abed Rabbo family – **Randa Abed Rabbo**, 45, her son **Sofian**, 25, and five nephews – and injured several other relatives. The victims were by the door of the family's small grocery store, on the ground floor of the family house in al-Makham Street, in the Zemm area, in the east of **Jabalia**. Surviving relatives who were injured in the attack told Amnesty International that the family was eating breakfast in the grocery store when the missile struck. They had heard on the radio that on that day the daily three-hour lull (the timing of which was announced daily by the Israeli army) was to be from 10am to 1pm and some had gone out to buy provisions and returned home to eat. At the site Amnesty International delegates found tiny cube-shaped metal shrapnel from the missile embedded in the grocery store's metal door and small square holes from the shrapnel peppered the surrounding wall.

On **27 December 2008**, the first day of the Israeli military offensive against Gaza, scores of civilians were killed within hours of the beginning of the air strike campaign. Among the casualties were a large group of students from the UNRWA Vocational Training Centre, located in the UNRWA compound in the centre of **Gaza City**. At about 1.20pm a missile struck the street outside the training centre, where a group of students who had just left the centre after an exam were waiting in the street outside the UN compound for UN buses to return to their homes in different parts of the Gaza Strip. **Eight students**, aged 17 to 20, were killed and some 20 others were injured, one of whom died three days later. Three young men from the **al-Rayes** family, who lived across the road, were also killed. The three, **Allam**, 18, his brother **Hisham**, 24, and their cousin **Abdallah**, 20, were standing outside their home, in front of the family's small grocery shop. At the location of the strike, in front of the al-Rayes' grocery store, Amnesty International delegates found a small, deep hole in the road and tiny cube-shaped metal shrapnel embedded in the store's metal door and the wall around it. Many other cubes had penetrated through the thick metal.

On the morning of **8 January 2009** **Mather Abu Zneid**, a 23-year-old English teacher in an UNRWA school, and her cousin **Faten Abdelaziz Abu Zneid** were killed in a drone strike in **al-Qarara**, near Khan Yunis. Mather's mother told Amnesty International: *"There had been a lot of shelling around our home all night. In the morning the situation was calm and me and my three daughters left home at about 11.30 to go to the UNRWA school. We thought we would be safer there. My niece, Faten, also came with us. My husband stayed at home to look after the house. We weren't carrying anything, just small ladies' handbags. We were walking; the street was empty. Mather and Faten were in front, my two other daughters were further back and I was behind them. Mather turned back and told me 'Hurry up, mummy!' Just at that moment the missile struck Mather and Faten. They were killed, in front of my eyes; no mother should ever have to witness that. People from nearby houses rushed to help. We couldn't find my other daughter; I thought she had been blown away and killed too by the blast, but she had run into one of the houses. Why did they attack us? What crime did we commit? We were five women walking alone in the empty street. I want to know why. I want the UN to investigate why they killed my daughter."*

On **6 January 2009** at 1.30pm, **Afaf Mohammed Dhmeida**, a 28-year-old mother of five, was killed by a tank round as she was hanging the laundry on the roof terrace of her home in **Jabalialia**. Her husband, relatives and neighbours told Amnesty International that the strike had cut Afaf's body into two, and that the top half had been flung off the roof, bouncing off the roof of a lower building across a yard and landing in a parking lot across the house. Her five-year-old daughter had just reached the top of the stairs to the roof and saw her mother being killed. When Amnesty International delegates visited the house three weeks after the incident, the girl was still not speaking, apparently as a result of the trauma of witnessing her mother's killing.

Ala' Mortaja, a 26-year-old radio journalist, was killed and his mother gravely injured when a tank shell struck his home, in the **al-Zaytoun neighbourhood of Gaza City**, at about 5.30pm on **9 January 2009**. The shell first struck the room in which Ala' and his mother were present, seriously wounding Ala' and his mother. Ala' died later that day of his wounds and his mother lost a leg and sustained other shrapnel wounds. The shell then crashed through the apartment's hallway and into the next-door apartment. Just before the strike on Ala' Mortaja's home, another shell had struck his neighbour's home, causing extensive damage but, luckily, no injuries. Ala' Mortaja worked as a presenter for Alwan (Colours) radio station and for United Palestine News Network (UPNN), a network of local radio and TV outlets established last year with the assistance of the international media development organization Internews. His uncle told Amnesty International that on 9 January, with movement difficult or impossible in Gaza in general and in his neighbourhood in particular, he had been stuck at home and trying to work by phone.

In another incident nearby, three tank shells struck the home of **Hanan Shaaban al-Najjar**, in **Jabalialia**, on **14 January 2009**, killing her and her neighbour **Kifa al-Nidher** and injuring one of Hanan's children and other neighbours. Hanan's sister told Amnesty International: "*Hanan's children, Aisha, aged four, and Ayman, aged six, were playing in the patio and we were in the house; it was about 11.15am and suddenly there was a strike outside. Hanan screamed and ran outside and I ran behind her. She picked up Ayman, who had been thrown several metres back and she handed him to me; he was OK and I was going to take him inside. Then she bent down to pick up Aisha, and at that moment another shell hit Hanan. She was killed instantly; her body was cut in to pieces. Aisha was injured. Our next door neighbour, Kifa, rushed over to us with two other neighbours, Zayed and Zuheir Jneid. At that moment another shell struck Kifa and also killed her instantly.*"

The two other neighbours were injured and one of them, **Zayed**, died the following day. Kifa's husband told Amnesty International: "*She heard the strike and the screams and she ran to help her neighbour. She always helped everyone; she was generous like that. Now we have lost her. She left 11 children who need their mother; the oldest is only 15 and our baby is only six months old.*"

Tank shells were also fired at homes located nearer to where they were stationed. In the al-Jaru area of **Gaza City**, between Jabal al-Raiss and Tal Surani, two tank shells were fired into the **al-Jaru** family home in the evening of **8 January 2009** from tanks stationed a few hundred metres away. Dr 'Aouni al-Jaru, a 37-year-old medical doctor, was working at his desk in the study, his 36-year-old wife, Albina Vladimir, a Ukrainian national, was in the kitchen and their 17-month-old son Yousuf, 12-year-old daughter Yasmin, and 14-year-old

son 'Abderrahim were in their room. Dr al-Jaru told Amnesty International: *"At about 9.45pm a first shell struck the house. I ran out of the study and my wife had run out of the kitchen, towards the children's room, at the other end of the house. As she crossed the living room she was struck by a second shell; it cut her in two; she was holding baby Yousuf and he was also killed. Yasmin and 'Abderrahim had also rushed out of their room and were injured by shrapnel, and so was I. There had been no shelling around the house before. We knew that Israeli forces were in the area, as usually happens during Israeli army incursions, and were wary of going out, but at home we didn't feel in any danger. We never thought that we could be hurt in our home."*

While Dr al-Jaru and his children were in hospital and recovering with relatives, the Israeli army forced all the residents of the neighbourhood to leave the area. When they returned, after the end of Operation "Cast Lead" they found that their home had been destroyed, along with all the homes of their relatives in the area. Forty-five houses belonging to the al-Jaru extended family, in which more than 250 people lived were systematically destroyed and razed to the ground.

Atta Hassan 'Aref 'Azzam, 44, and two of his children, **Mohammed**, aged 13, and **Hassan**, aged two and a half, were killed on the morning of **7 January 2009** by flechettes in their home in the village of **Moghraqa**, south of Gaza City. Most of the residents had fled the area after Israeli forces had taken position nearby. The Azzam family feared that if they left their home it would be destroyed and decided to stay. There was frequent shelling and shooting in the area so the family stayed inside except to fetch water. At 8am on 7 January they fetched water and a shell came through the room where Atta was sitting with two of his children. All three were killed. The other six members of the family fled to the nearest school, where they remained until after the withdrawal of Israeli forces. When Amnesty International examined the bloodstained wall left standing where the three had been killed, they found it full of flechettes.

In the morning of **15 January 2009**, as the neighbourhood of Tal al-Hawa in Gaza City was witnessing intensive fighting and indiscriminate artillery shelling from Israeli forces, including with white phosphorus, **Uday Salama al-Haddad**, 55, his wife **Ihsan**, 45, their daughter **Ala'**, 13, and their son **Hatem**, 23, were burned to death in their car as they were trying to flee to safety from their home in Tal al-Hawa. Another son, 25-year-old Muhammad, who was seriously injured in the attack, told Amnesty International from his hospital bed: *"At around 11am we decided to leave our house as it was so dangerous. There was heavy shelling and tanks were coming in from al-Zaytoun area. We decided to go to our relatives who live in the Rimal neighbourhood, which is the most central and we thought it would be safe. We got into my father's car and we had barely travelled 100 meters when an Israeli shell hit the car and threw me 10 metres from it. I was wounded and was trying to open the door of the car when another strike blew up the car killing my father, mother, brother and sister. The car went on burning for six hours as it was too dangerous for the emergency services to get here."*

'Imad al-Shawa, who lives nearby, told Amnesty International that he witnessed the strike on the car from his balcony. Muhammad lost an eye and sustained deep burns which continued to worsen with the passing of time, indicating that at least one of the shells which hit the car and set in on fire carried white phosphorus, which was being fired in the area in large quantity that morning (see white phosphorus attacks on al-Quds Hospital in Chapter 1.3).

On **16 January 2009** at about 5.20pm a missile strike on their home killed 33-year-old **Manal al-Batran** and five of her children, aged four to 14, tearing their bodies to pieces. Manal's husband, 'Issa Abdel Hadi al-Batran, a militant of Hamas' armed wing and the apparent target of the attack, survived with their sixth child, an eight-month-old baby, as they were both in another room. The family had been living in a nearby house because they feared that their home might be bombed (their previous home had been bombed and destroyed some months earlier) and had gone back home to fetch some clothes.

The timing of the attack suggests that the family had been observed going to their home. Even if the target of the attack was 'Issa, a militant who may have been a legitimate target, the attack was unlawful, because it was carried out in the knowledge that his wife and six children would likely be killed or injured.

On **5 January** at about 1pm **Ibrahim Jouha**, 14, was shot in the chest as he was carrying a white flag and walking with his parents and siblings and neighbours near his house in the **al-Zaytoun district, in the south-east of Gaza City**. His mother, Mudallala Jouha, told Amnesty International:

"On the night between Saturday 3 and 4 January the army was shelling all around us. We were in the house – me, my husband Mou'in Jouha (an agricultural engineer who has worked for the Agriculture Ministry since the establishment of the PA 15 years ago), his second wife, our 10 children and my husband's mother. We were scared and lay on the floor in the inside rooms for protection. At dawn the soldiers came to the house (on the Salahaddin Road). We all kept our hands above our heads. The soldiers smashed walls and dug up the floors to get sand to fill the bags (to protect their snipers shooting from the holes in the walls). The soldiers told us to leave the house and to walk south, to Rafah. But this was impossible, it was too dangerous to walk south. We went to a neighbour (Abu Zouhr family) and there we found other neighbours (the Sawafiri and Mughrabi families) also sheltering. We all stayed there till the following morning (5 January) and then after much shelling soldiers came and told us to leave but again told us to go to Rafah and did not let us walk north to Gaza City. The soldiers fired in our direction so we sheltered in the garage next door. We were more than 50 people, most of us children. Then we decided to walk north to Gaza City, past our house, which had been taken over by the soldiers. We put my husband's mother in a small cart because she could not walk and we could not carry her. My husband pushed the cart and my son, Ibrahim, aged 14, walked next to him with a white flag. We walked with our hands up. The soldiers shot at us from the Abu Zouhr family's house and hit my son Ibrahim in the chest. We carried him back to the garage and called the Red Crescent ambulance but the army did not allow ambulances to come there. We stayed all day and all night. Ibrahim was in pain and I held him lying in my lap. I tried to keep him warm and to stop his bleeding but he died at about 2am. We were finally able to leave two days later (on 8 January), when the Red Cross was allowed to come to the area to evacuate people."

When Amnesty International delegates visited the Jouha family house on 18 January, immediately after the Israeli forces had withdrawn from the area, they found holes smashed in the outer walls surrounded by army bags full of sand, army bags full of excrement, furniture and possession smashed and graffiti written in Hebrew on the inside walls saying "We came to annihilate you" and other threats and insults.

APPENDIX 2: FURTHER CASES OF ISRAELI CIVILIAN CASUALTIES

In the afternoon of **2 January 2009**, at about 4pm, a rocket struck the home of the **Ben Avraham** family in **Ashkelon**. Hagai Ben Avraham was in the shower, on the second floor of his house, when the warning siren sounded and his children called him to hurry to the fortified room on the ground floor. As he was running downstairs, a rocket exploded on the roof of the house, just above the spot where he had stood seconds before, destroying most of the roof and of the top floor of the house.

The following day, on **3 January 2009** at 11am, a rocket exploded in the kitchen of the **Vadovichenko** family home, on the top floor of a four-storey building in **Ashdod**. Olga Vadovichenko was at home with her husband and their two daughters, 12-year-old Anna and three-year-old Milena. When the warning siren sounded they went down to the second floor in the stairwell, where residents of multi-storey houses often go for protection. The whole house shook from the blast but fortunately no one was hurt. When they bent back upstairs with the emergency services, they found their kitchen had been destroyed. Olga told Amnesty International: *"The fridge was as flat as pitta bread. It was full of food leftovers from our New Year's party – I have no idea how it could have just disappeared."* The furniture and the window panes in the living room were also destroyed in the explosion.

In the next-door apartment, 58-year-old **David Cohen** had been sleeping in the living room and did not hear the siren. The blast damaged the front door, which then could not be opened, trapping David, who suffers from a heart condition and diabetes, inside the apartment. His daughter, Eti, told Amnesty International that she received a panicked message from her father saying *"Help me, I'm stuck"*. She rushed to his home and he had to be rescued through the balcony, and was taken to hospital for check-ups due to his condition. The blast shattered the window panes in the apartment. When an Amnesty International delegate met the two families, nearly two weeks after the attack, they were being temporarily housed in a hotel in Tel Aviv, waiting for their homes to be repaired.

Mesodi Dayan, a 76-year-old widow, was sleeping when a Qassam rocket struck her home at 8.30am on **4 January**. It crashed through the roof of the small veranda and exploded, destroying the small living room and kitchen. Only the bedroom, where Mesodi was sleeping was not destroyed. She did not hear the warning siren, if one sounded. The siren gives residents of **Sderot** a 15-second-warning. Mesodi had no fortified room or any protected space in her small one-floor house and even if she had heard the siren, she would not have been able to get up and run to the nearest shelter – about 100m away at the end of the lane and down some steps – in 15 seconds. At most she would have only had time to reach the living room, and would have likely been killed or injured in the explosion.

Her neighbour told Amnesty International that when emergency workers rescued Mesodi from the rubble of her home she was covered in dust, and could not speak or walk. When Amnesty

International delegates met her, Mesodi Dayan was staying with her daughter, in a different part of Sderot. She said she missed her home, the company of neighbours and her routine, doing her own cooking and taking care of herself. She lived in her home for 30 years and found it difficult to be elsewhere. All her possessions in her home were destroyed or damaged. She said that she went to the house to pick up some of her clothes, but could not even find a skirt. She hoped to have her house rebuilt, with a fortified room, as at her age she could not run to the shelter in time when the warning siren sounds. Once previously, in April 2008, when running to the shelter she fell down and hurt her shoulder. The injury still caused her pain and she still needed physiotherapy.

The rocket which destroyed Mesodi Dayan's home also knocked down the walls of the two adjacent houses. In one of the houses, the wall collapsed on a man and his son who were sleeping. They woke up under the rubble and the father sustained mild concussion. When Amnesty International delegates visited the house one of the neighbours was repairing the wall and broken windows.

In the morning of **12 January 2009** the **Ben Dayan** family had a lucky escape when a rocket slammed into the top floor of their home in a residential district of **Ashkelon**. Twenty-six-year-old Itzhik, his 12-year-old sister Noa and their 12-year-old cousin Noa were at home at about 11am when the siren warning of an incoming rocket sounded.

Itzhik was on the second (top) floor, and farthest way from the bomb shelter on the ground floor of the house, and the two children were in the living room downstairs. All three managed to run to the bomb shelter in time. They heard a blast, and thought they could leave the shelter. A second blast, much louder, shook the house as they opened the door of the shelter to leave. The first blast has been caused by the rocket smashing into the house and the second, louder blast was caused by the explosion of the rocket in the bedroom next to the room where Itzhik had been working repairing a computer, only seconds earlier.

The rocket slammed into the side of the attic and through the ceiling of the corner bedroom, travelled across the bedroom and through a wall into the bathroom, and from there through another wall into another bedroom. Rubble, dust and broken furniture were everywhere in the three rooms when Amnesty International delegates visited the house shortly after the explosion. Itzhik and Noa's mother, who was at work at a nearby shopping mall when the strike happened, rushed home and fainted when she saw her damaged home and realized the danger her children had been exposed to. The family had to move to temporary accommodation while waiting for extensive repairs to be carried out in their home.

The previous day, on Sunday **11 January 2009**, a total of 22 rockets launched by Palestinian armed groups from Gaza landed in and around towns and villages in southern Israel. Though none caused any casualty, the rockets caused panic on the day when classes resumed in secondary schools in some of towns where schools had been ordered closed by the Israeli army when it began Operation "Cast Lead". Three of them were Grad-type rockets. One exploded in an empty school playground in the town of **Ashdod** and two others in the town of **Bersheva**, one of which hit a car. Ashdod and Bersheva had until recently been out of range of such attacks but, with longer-range rockets being smuggled into Gaza, these towns have joined the list of the Israeli residential areas under fire. Most of the others were Qassam-type rockets, locally manufactured in Gaza and with a shorter range. One of them landed in

Sderot, only a few metres from the mayor's house, another in an open area in the town of Ashkelon and the others fell in fields around several villages in the western Negev region, closer to Gaza.

ENDNOTES

¹ See for example web pages of Israel's state-owned Armament Development Authority, Rafael:

http://www.rafael.co.il/marketing/SIP_STORAGE/FILES/1/481.pdf;

http://www.rafael.co.il/marketing/SIP_STORAGE/FILES/2/512.pdf;

http://www.rafael.co.il/marketing/SIP_STORAGE/FILES/9/529.pdf.

² Population density in Gaza is some 4,200 people per square kilometre. The refugee camps have one of the highest population densities in the world. For example, over 82,000 refugees live in al-Shati (Beach) camp, which is less than one square kilometre in size.

³ Since the outbreak of the *intifada*, the Palestinian uprising which began on 29 September 2000, the Israeli army has increasingly often used lethal force in the Occupied Palestinian Territories (OPT) and especially in Gaza.

⁴ On 7 January OCHA warned: *"Growing pockets of Gazans are trapped in their homes... Gazans cannot flee to safety or access food because of Israeli ground forces in the area. In addition to dropping leaflets over areas including northern Gaza, the entire eastern border of Gaza and Rafah, the Israeli army is broadcasting messages over local radio and television stations and phoning people all over the Gaza Strip, ordering people to evacuate their homes and go to urban areas. Panicked, people are fleeing amidst gunfire and shelling"*:

http://www.ochaopt.org/documents/ocha_opt_gaza_humanitarian_situation_report_2009_01_07_english.pdf

⁵ Another four Israeli soldiers were killed and several injured by their own side in "friendly fire" incidents.

⁶ Amnesty International sought access for its delegates to the Gaza Strip from the first days of Operation "Cast Lead", but the Israeli army rejected the request. The organization's delegates were eventually able to enter Gaza on 17 January from Egypt, having received a special permit from the Egyptian authorities (usually only Palestinian residents of Gaza are allowed through the Egypt-Gaza border but in the last days of Operation "Cast Lead" the Egyptian authorities exceptionally allowed passage for foreign journalists and human rights and aid workers). Amnesty International's delegates remained in Gaza until 3 February, during which time they carried out first-hand field research in different parts of Gaza.

⁷ Among those still denied access to Gaza at the time of writing are delegates from the NGOs Human Rights Watch and B'Tselem.

⁸ The international independent fact-finding mission was established by the UN Human Rights Council at its ninth special session on 12 January 2009. Its mandate was limited to investigating alleged violations of international law by Israeli forces. However, in April 2009, when he was appointed to head the fact-finding mission, Justice Richard J. Goldstone, and the President of the Human Rights Council indicated that the mission would examine the violations of international law committed by all parties, including by the Palestinian armed groups.

⁹ The UN Board of Inquiry established that Israeli forces had been responsible for seven of the nine attacks, while Palestinian militants had been responsible for at least one attack and the source of the

ninth attack could not be established.

¹⁰ Amnesty International, *Hamas' deadly campaign in the shadow of the war in Gaza* (Index: MDE 21/001/2009), 12 February 2009:

<http://www.amnesty.org/en/library/asset/MDE21/001/2009/en/9f210586-f762-11dd-8fd7-f57af21896e1/mde210012009en.html>

¹¹ Israeli Channel 10 TV, 21 March 2009: <http://www.haaretz.com/hasen/spages/1072811.html>

¹² According to Amnesty International's experience of investigating the activities of Palestinian armed groups over many years, in the vast majority of cases combatants are in their 20s and 30s; a small minority are in their 40s and only very rarely are they in their 50s.

¹³ The presence of such rank-and-file fighters among civilians in a facility which is inherently civilian does not make the facility and all its occupants a military objective.

¹⁴ On 26 March the IDF Spokesperson announced that the intelligence services had gathered 1,166 names of Palestinians killed during Operation "Cast Lead" and that 709 were "terror operatives" from Hamas and other groups, 162 were men with no known affiliation, and 295 were uninvolved civilians, including 89 under the age of 16, and 49 women. However it provided no names or other details. See: <http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/Vast+majority+Palestinians+killed+Operation+Cast+Lead+terror+operatives+26-Mar-2009.htm>

¹⁵ IDF statement: <http://idfspokesperson.com/2008/12/27/idf-launches-operation-cast-lead>; IDF media briefing: http://dover.idf.il/IDF/English/News/the_Front/09/01/1901.htm

¹⁶ http://news.bbc.co.uk/1/hi/world/middle_east/7878711.stm

¹⁷ http://news.bbc.co.uk/1/hi/world/middle_east/7878711.stm

¹⁸ *The Jewish Chronicle*, 5 March 2009: <http://www.thejc.com/articles/gaza-soldiers-speak-out>

¹⁹ <http://www.haaretz.com/hasen/spages/1058509.html>

²⁰ Protocol of the "Fighters' Talk" Session for Graduates of the Rabin Pre-Army Preparatory Program following Operation "Cast Lead", Oranim, 13 February 2009 – Winter Conference.

²¹ [Defence Minister Ehud] "Barak: Gaza probe shows IDF among world's most moral armies": <http://www.haaretz.com/hasen/objects/pages/PrintArticleEn.jhtml?itemNo=1080244>

²² The army has not published the briefing on its website but distributed it by email. Amnesty International has a copy on file. A summary is available at: <http://idfspokesperson.com/2009/04/22/idf-announcement-findings-from-cast-lead-investigations>

²³ "a very small number of incidents in which intelligence or operational errors took place during the fighting... were unavoidable and occur in all combat situations, in particular of the type which Hamas forced on the IDF, by choosing to fight from within the civilian population": <http://idfspokesperson.com/2009/04/22/idf-announcement-findings-from-cast-lead-investigations>

²⁴ From Protocol of the "Fighters' Talk" Session for Graduates of the Rabin Pre-Army Preparatory Program following Operation "Cast Lead", Oranim, 13 February 2009 – Winter Conference.

²⁵ Dalal's testimony to al-Jazeera TV: <http://www.youtube.com/watch?v=JPoldEfWClo&feature=related>

(original in Arabic) and <http://www.youtube.com/watch?v=9tSjhEml1Oo&feature=related> (extract with English subtitles).

²⁶ This practice was put in place in the summer of 2006. However, such bombardments often destroyed or damaged nearby houses, sometimes killing or injuring their inhabitants, who had received no warnings. At that time the telephone warnings were often not followed by any bombardments, in some cases because neighbours and friends flocked to the threatened houses in large numbers to prevent them being bombed. In other cases houses were bombed after the inhabitants had complied with the orders to leave them.

²⁷ In one case, on 1 January 2009 the Israeli Air Force bombed the house of Nizar Rayan, a university lecturer and senior figure in Hamas' political and armed wings, reportedly after he failed to heed calls to leave the house. Rayan was killed in the attack along with his four wives and their 11 children, aged between two and 16 years. Several neighbouring houses were also destroyed. The Israeli army said it had dropped a one-ton bomb on the house and that this was the target of the attack, as opposed to Rayan himself. They alleged that it was used as a weapons store and communication centre and had an underground escape tunnel for militants (<http://idfspokesperson.com/2009/01/01/iaf-strike-on-house-of-nizar-rian-1-jan-2009>). Even if the Israeli army's allegations – which have not been substantiated – are accurate, the attack would have been disproportionate and in breach of international humanitarian law. The army has provided no information about what specific military advantage it could achieve by carrying out this attack at this particular time, knowing that, with the schools closed, the children and women non-combatants would be in the house. The army has provided no evidence to substantiate its claim that it only bombed the house after its surveillance identified a large group of people leaving the house.

²⁸ <http://www.independent.co.uk/news/world/middle-east/five-sisters-killed-in-gaza-while-they-slept-1216224.html>

²⁹ Israeli soldiers' website *Shavuz*, in Hebrew: <http://www.shavuz.co.il/magazine/article.asp?artid=3365&secid=2027> (Israeli soldiers' website in Hebrew)

³⁰ <http://idfspokesperson.com/2009/01/14/idf-vlog-israeli-airstrikes-aborted-to-protect-civilians>

³¹ The missiles carried by the unmanned drones are smaller and lighter than missiles fired from helicopters. These small but lethal missiles often explode large numbers of tiny sharp-edged metal cubes, each between 2-4 mm² in size. These purpose-made shrapnel can easily penetrate thick metal and concrete walls. In some respects they seem to be a more sophisticated version of the ball-bearings or nails and bolts which armed groups often pack into crude rockets and suicide bombs. The signature of these relatively new missiles, in addition to the deadly tiny metal cubes, is a small and deep hole in the ground (about 10cm or less in diameter and up to several metres in depth) and a small quantity of very thin metal shrapnel from the missile's casing.

³² Israeli tanks (Merkava 3 and 4) can carry some 10 infantry soldiers each, in addition to the tank crew of four (commander, loader, gunner and driver). See for example: <http://www.army-technology.com/projects/merkava> and <http://www.army-technology.com/projects/merkava4>

³³ *The Jewish Chronicle*, 5 March 2009: <http://www.thejc.com/articles/gaza-soldiers-speak-out>

³⁴ Also see: <http://www.youtube.com/watch?v=JPRMWpH89c8&feature=channel>

³⁵ <http://jewishvoiceandopinion.com/a/JVO20090204.html>

³⁶ <http://idfspokesperson.com/2009/02/04/idf-investigation-results-dr-abu-el-eish-residence-4-feb-2009-1708-ist/>

³⁷ http://news.bbc.co.uk/1/hi/world/middle_east/7878711.stm

³⁸ See also Ghada Abu Halima's account of the incident to the Israeli human rights NGO B'Tselem: http://www.btselem.org/English/Testimonies/20090104_Abu_Halima_home_set_on_fire_by_shelling.asp She later died of her wounds.

³⁹ See also Nuha al-Najjar's testimony to the Israeli NGO B'Tselem of the same incident: http://www.btselem.org/English/Testimonies/20090112_Soldiers_shot_woman_waving_white_flag_in_Kh_uzaa.asp

⁴⁰ The force, like all other security forces under the control of the West-Bank based PA government, has been grounded since the Hamas takeover in Gaza in June 2007.

⁴¹ For explanation of the uses and effects of white phosphorus in weapons, see Federation of American Scientists, "White Phosphorus Fact Sheet", available at <http://www.fas.org/biosecurity/resource/factsheets/whitephosphorus.htm>

⁴² See Amnesty International, *Israel/Occupied Territories: Amnesty International delegate visits scene of Gaza Strip killings* (Index: MDE 15/087/2006), 8 November 2006: <http://www.amnesty.org/en/library/asset/MDE15/087/2006/en/dom-MDE150872006en.html>

⁴³ When Amnesty International delegates visited the area on 22 January 2009, they also found remains of Israeli army food and wrappers, unused army body warmers, Hebrew prayer leaflets, Israeli army bags full of excrement and insulting or threatening graffiti (in Hebrew) in and around several houses in the neighbourhood which Israeli soldiers had taken over after the residents fled on 4 January. On one of the walls of the Abu Halima's burned house the following was written (in Arabic, with spelling mistakes): "From the Israel Defense Forces, we are sorry".

⁴⁴ See photograph on the cover of this report.

⁴⁵ *Summary by the Secretary-General of the report of the United Nations Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009.*

⁴⁶ http://www.un.org/unrwa/news/statements/SecGen/2009/headquarters_15jan09.html

⁴⁷ Israeli army officials alerted by UNRWA personnel include Major Aviad Zilberman, Lieutenant-Colonel Uri Zinger and Brigadier-General Baruch Spiegel.

⁴⁸ Marking PB-91K018-035 was found on the fragments of one of the white phosphorus artillery shells. This is the lot number and indicates that they were assembled by Pine Bluff Arsenal (PB) in 1991 (91) in October (K).

⁴⁹ <http://www.haaretz.com/hasen/spages/1055761.html>;
<http://www.israelnationalnews.com/News/Flash.aspx/159354>

⁵⁰ *Summary by the Secretary-General of the report of the United Nations Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009.*

⁵¹ The statement was in response to a question from Knesset Member Zehava Galon on the allegation that the army was using white phosphorus in Gaza.

⁵² <http://edition.cnn.com/video/#/video/world/2009/01/12/wedeman.gaza.israel.phosphorus.cnn>

⁵³ http://www.timesonline.co.uk/tol/news/world/middle_east/article5470047.ece

⁵⁴ Translation from a Hebrew-language document obtained by Amnesty International.

⁵⁵ Translation from a Hebrew-language document obtained by Amnesty International.

⁵⁶ School officials told Amnesty International that on the day of the attack some 1,900 people were sheltering in the school.

⁵⁷ http://www.mfa.gov.il/MFA/Government/Communiques/2009/Initial_inquiry_school_incident_6-Jan-2009.htm;
http://www.mfa.gov.il/MFA/About+the+Ministry/Behind+the+Headlines/Ttragedy_school_Jebaliya_6-Jan-2009.htm; and <http://www.haaretz.com/hasen/spages/1053138.html>

⁵⁸ http://news.bbc.co.uk/1/hi/world/middle_east/7814054.stm

⁵⁹ Colonel Olivier Rafawitz, "Why doesn't the UN confirm that its school was used as a base to launch rockets?" (in French), 11 January 2009: <http://www.cyberpresse.ca/opinions/chroniqueurs/patrick-lagace/200901/11/01-816569-gaza-israel-la-palestine-et-la-guerre.php> See also: <http://video.google.fr/videosearch?q=gaza+france+24&hl=fr&emb=0&aq=3&oq=gaza+FR#q=gaza+france+24&hl=fr&emb=0&aq=3&oq=gaza+FR&start=10>

⁶⁰ <http://www.ipost.com/servlet/Satellite?cid=1231167272256&pagename=JPost%2FJPArticle%2FShowFull>

⁶¹ http://news.bbc.co.uk/1/hi/world/middle_east/7814054.stm;
<http://video.google.fr/videosearch?q=gaza+france+24&hl=fr&emb=0&aq=3&oq=gaza+FR#q=gaza+france+24&hl=fr&emb=0&aq=3&oq=gaza+FR&start=10>

⁶² <http://www.haaretz.com/hasen/spages/1054284.html>

⁶³ *Summary by the Secretary-General of the report of the United Nations Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009.*

⁶⁴ *Summary by the Secretary-General of the report of the United Nations Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009.*

⁶⁵ "How Flechettes Work", *The Guardian*: <http://www.guardian.co.uk/graphic/0,,2274464,00.html>

⁶⁶ http://www.janes.com/defence/land_forces/news/jdw/jdw010522_2_n.shtml

⁶⁷ Amnesty International, *Killing the future: Children in the line of fire* (Index: MDE 02/005/2002), 29 September 2002: <http://www.amnesty.org/en/library/asset/MDE02/005/2002/en/02775d56-d7f1-11dd-9df8-936c90684588/mde020052002en.html> Prior to their use during Operation "Cast Lead" the last known use of flechette shells by Israeli forces in Gaza was on 16 April 2008, when an Israeli tank fired a flechette shell at Reuters journalist Fadel Shana, while he was filming the tank, killing him and three other unarmed civilians, including two children. See Amnesty International, *Army's so-called inquiry into cameraman's killing in Gaza a scandal*, 15 August 2008: <http://www.amnesty.org/en/news-and-updates/news/armys-so-called-inquiry-cameramans-killing-gaza-scandal-20080815>

⁶⁸ This AGM 114 Hellfire missile was produced by Hellfire Systems of Orlando, USA, a Lockheed Martin/Boeing joint venture, under a contract with the US Army's Aviation and Missile Command at

Redstone Arsenal, Alabama, which uses the number DAAH01-03-C-0106 on its contracts.

⁶⁹ The note is not an official paper and it is not clear to what extent it accurately reflects instructions to the troops or simply the interpretation of the rules of engagement by a particular low-level commander. The paper contains notes about the situation during Operation "Cast Lead" and was written in Hebrew on the back of a letter, also in Hebrew, addressed to: *"the Golani [Brigade] soldiers"* wishing them *"good luck in the war"*. It was found by a fieldworker of a Palestinian human rights NGO in a house which had been taken over by Israeli forces in January 2009. Also see:

<http://www.haaretz.co.il/hasen/spages/1072830.html>

⁷⁰ http://www.ochaopt.org/gazacrisis/admin/output/files/ocha_opt_gaza_humanitarian_situation_report_2009_01_06_english.pdf

⁷¹ <http://www.icrc.org/Web/Eng/siteeng0.nsf/html/palestine-news-080109>

⁷² This has long been standard practice for Israeli soldiers, both in Gaza and in the West Bank.

⁷³ The Israeli army, in its Operational Directive issued on 26 November 2002 stated that: *"'Early Warning' is an operational procedure, employed in operations to arrest wanted persons, allowing solicitation of a local Palestinian resident's assistance in order to minimize the danger of wounding innocent civilians and the wanted persons themselves (allowing their arrest without bloodshed). Assistance by a local resident is intended to grant an early warning to the residents of the house, in order to allow the innocent to leave the building and the wanted persons to turn themselves in, before it becomes necessary to use force, which is liable to endanger human life."* Following complaints, the practice was banned by the Supreme court on 6 October 2005. See: *Adalah – The Legal Center for Arab Minority Rights in Israel v. IDF West Bank Military Commander*, HCJ 3799/02:

http://elyon1.court.gov.il/files_eng/02/990/037/a32/02037990.a32.htm

⁷⁴ See details of the killing of Rawhiya al-Najjar in Chapter 1.2.

⁷⁵ Also see the testimonies of three children from the al-Attar family speaking about having been used as "human shields": <http://www.guardian.co.uk/world/2009/mar/23/gaza-human-shields-claim>

⁷⁶ *"Tens of thousands of Gazans have received recorded phone calls from the Israeli army... Hundreds of thousands of leaflets gave the same message."*:

<http://www.nytimes.com/2009/01/01/world/middleeast/01mideast.html?pagewanted=1&r=1>:

⁷⁷ An Amnesty International delegate received one such call in the Amnesty International office in Beirut in July 2006. The office is located in an area which was not targeted during the war.

⁷⁸ http://news.bbc.co.uk/1/hi/world/middle_east/7878711.stm

⁷⁹ <http://www.reuters.com/article/latestCrisis/idUSB485081>

⁸⁰ http://www.mfa.gov.il/MFA/Government/Communiques/2009/IDF_warns_Gaza_population_7-Jan-2009.htm

⁸¹ For an analysis of the effect of the blockade, prior to the conflict, on the right to health of Palestinians in Gaza see Amnesty International, *Israel and the OPT: Health Professional Action: Crushing the right to health - Gaza* (Index: MDE 15/044/2008), November 2007:

<http://www.amnesty.org/en/library/info/MDE15/044/2008/en>

⁸² OCHA, *The Humanitarian Monitor*, No. 33, January 2009:

http://www.ochaopt.org/documents/ocha_opt_humanitarian_monitor_2009_01_15_english.pdf

⁸³ Five UNRWA staff and three of its contractors were killed while on duty, and another 11 staff and four contractors were injured. Four incidents of aid convoys being shot at were reported. At least 53 UN buildings sustained damage. See OCHA, *The Humanitarian Monitor*, No. 33, January 2009.

⁸⁴ OCHA, *The Humanitarian Monitor*, No. 34, February 2009

⁸⁵ OCHA, *Protection of Civilians Weekly Report*, 16-24 March 2009.

⁸⁶ OCHA, *The Humanitarian Monitor*, No. 34, February 2009. OCHA reports that about 700 private sector establishments were totally destroyed or damaged during the conflict.

⁸⁷ OCHA, *The Humanitarian Monitor*, No. 34, February 2009. Prior to Operation "Cast Lead", Gaza's fishermen were permitted to fish up to six nautical miles from the shore.

⁸⁸ According to the UN Flash Appeal for Gaza (2 February 2009), 3,914 housing units were destroyed, 4,831 severely damaged, 6,104 partially damaged, and 18,918 had broken windows; and 164 schools, 16 hospitals and 38 primary health care clinics were damaged:

http://www.ochaopt.org/gazacrisis/admin/output/files/ocha_opt_gaza_flash_appeal_2009_02_05_english.pdf

⁸⁹ <http://idfspokesperson.com/2009/01/16/paratroopers-operate-in-gaza-16-jan-2009-1026-ist>

⁹⁰ Gadi Eisenkot, General Officer Commanding (GOC), Northern Command, said on 5 October 2008: "We will wield disproportionate power against every village from which shots are fired on Israel, and cause immense damage and destruction. From our perspective, these are military bases... This isn't a suggestion. This is a plan that has already been authorized".

(<http://www.haaretz.com/hasen/spages/1027755.html>). Though the statement was made in relation to possible attacks by Hizbullah against northern Israel, it gives an indication of the army's doctrine concerning destructive reprisals during military operations.

⁹¹ <http://www.iht.com/articles/2009/02/01/mideast/mideast.4-420683.php>;

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

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

⁹² *The Jewish Chronicle*, 5 March 2009 : <http://www.thejc.com/articles/gaza-soldiers-speak-out>

⁹³ Second Lieutenant Gil Dagan, Shirion Brigade, Battalion 401, in the army magazine *Bamachaneh* of 9 January 2009, p. 10, column "Witnesses of Battles".

⁹⁴ All available evidence indicates that even the houses which had been used by Palestinian fighters were for the most part destroyed after, as opposed to during, the fighting, when the fighters had left or had been killed and their bodies removed.

⁹⁵ Rabbi Meir Kahane was the founder of *Kach*, a racist party which advocated the expulsion of Palestinians and which was banned from the Knesset in 1986 and outlawed in 1994.

⁹⁶ Testimonies of two soldiers who served in the ground forces in Operation "Cast Lead" in Protocol of the "Fighters' Talk" Session for Graduates of the Rabin Pre-Army Preparatory Program following Operation "Cast Lead", Oranim, 13 February 2009 – Winter Conference.

⁹⁷ http://www.boston.com/news/world/middleeast/articles/2008/12/30/israel_vows_all_out_war_on_hamas/?page=2

⁹⁸ http://www.nytimes.com/2009/01/17/world/middleeast/17israel.html?_r=1&hp=&pagewanted=all

⁹⁹ <http://domino.un.org/unispal.NSF/59c118f065c4465b852572a500625fea/3f64338e11ed7eac8525756e004fda82!OpenDocument>

¹⁰⁰ The Quartet comprises the USA, Russia, the European Union and the UN.

¹⁰¹ Since June 2007, the sewage treatment plant is the only infrastructure project in Gaza for which the Israeli army has allowed some material into Gaza. Tony Blair has repeatedly asked Israel to allow the necessary material into Gaza for the work in this project.

¹⁰² See: http://www.youtube.com/watch?v=46s_9DEhmWU

¹⁰³ http://www.ochaopt.org/cluster/admin/output/files/ocha_opt_agriculture_assessment_report_english-20090302-153410.pdf

¹⁰⁴ <http://domino.un.org/unispal.nsf/c25aba03f1e079db85256cf40073bfe6/3460c6baf5848a5f8525757800486411!OpenDocument> and <http://www.wfp.org/news/hunger-in-the-news?page=1&tid=107>

¹⁰⁵ http://www.mfa.gov.il/MFA/Government/Communiques/2009/Warning_leaflets_dropped_Gaza_Strip_25-May-2009.htm

¹⁰⁶ See for example Amnesty International, *Under the Rubble: House demolition and destruction of land and property* (Index: MDE 15/033/2004), May 2004: http://www.amnesty.org/en/library/info/MDE_15/033/2004

¹⁰⁷ It also includes the punitive demolition of the family homes of Palestinians accused of carrying out attacks on Israelis.

¹⁰⁸ See for example the IDF Spokesperson's response to the Israeli human rights organization B'Tselem: *"The source of authority for the Israeli Defense Forces to harm private property during times of fighting and due to military needs is part of the laws of war, which are part of the international law. Specifically it refers to regulation 23(g) of the Hague Convention of 1907 which permits destruction of property in cases in which 'such destruction [is] imperatively demanded by the necessities of war...'"* (from B'Tselem's report *Policy of Destruction, House Demolition and Destruction of Agricultural Land in the Gaza Strip*, February 2002: www.btselem.org).

¹⁰⁹ Mortars have a much shorter range than rockets – some 3km – and are aimed both against Israeli forces in and around Gaza and at Israeli villages which are closest to Gaza.

¹¹⁰ Though described as Grad-type rockets, the rockets which reached Ashdod and Bersheva are believed to be 122mm rockets, which are different to and longer in range than the Grad-type rockets: <http://www.globalsecurity.org/military/world/para/hamas-qassam.htm>

¹¹¹ <http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/Missile+fire+from+Gaza+on+Israeli+civilian+targets+Aug+2007.htm#statistics>

¹¹² Mortars fired by Palestinian armed groups into former Israeli settlements inside Gaza also killed six other civilians in 2004 and 2005 (one Israeli, two Palestinians, two Thais and one Chinese). Several Palestinians have also been killed inside Gaza by rockets or mortars which failed to reach Israel and fell

inside Gaza.

¹¹³ The hospital has wanted to build a fortified emergency room and other facilities for some years but construction was halted by the government authorities because of an ancient cemetery reportedly located on the intended site and objection by the religious establishment to the remains of the ancient graves being moved. In February 2009 Ashkelon residents petitioned the Supreme Court, demanding that construction be allowed to resume.

¹¹⁴ *Summary by the Secretary-General of the report of the United Nations Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009.*

¹¹⁵ <http://www.globalsecurity.org/military/world/para/hamas-qassam.htm>

¹¹⁶ At times responsibility for rockets or attacks is claimed by other little known or unknown groups.

¹¹⁷ <http://www.alqassam.ps/arabic/statistics.php>

¹¹⁸ <http://www.pflp.ps/english/?q=comrade-abu-wadih-resistance-our-right-and-will-co>

¹¹⁹ <http://www.kataibagssa.com/newarab/news.php?action=view&id=568>

¹²⁰ The higher Palestinian figure likely includes attacks carried out jointly by two or more groups but listed as separate attacks by each group, and may also include rockets which did not reach Israeli territory. It is also possible that some groups deliberately exaggerated the figures, as is often the case. For example, in a statement announcing rocket attacks on Israel, the al-Quds Brigades also claimed to have killed 18 Israeli soldiers (<http://www.maannews.net/en/index.php?opr=ShowDetails&ID=35091>), a figure rejected by the Israeli army, which put the total number of soldiers killed by Palestinian armed groups during Operation "Cast Lead" at six, with an additional four killed by other Israeli soldiers in "friendly fire" incidents.

¹²¹ <http://www.guardian.co.uk/commentisfree/2009/jan/06/gaza-israel-hamas>

¹²² <http://www.pflp.ps/english/?q=pflp-interview-ma-news-agency-israeli-aggression-g>

¹²³ <http://www.kataibagssa.com/newarab/news.php?action=view&id=568>

¹²⁴ <http://www.youtube.com/watch?v=TfEcNhFLKnk&feature=related>

¹²⁵ See Amnesty International, *Hamas' deadly campaign in the shadow of the war in Gaza* (Index: MDE 21/001/2009), 12 February 2009:

<http://www.amnesty.org/en/library/asset/MDE21/001/2009/en/9f210586-f762-11dd-8fd7-f57af21896e1/mde210012009en.html>

¹²⁶ See Amnesty International, *Torn apart by factional strife* (Index: MDE 21/020/2007), 24 October 2007: <http://www.amnesty.org/en/library/info/MDE21/020/2007>

¹²⁷ Article 58 of Additional Protocol I.

¹²⁸ After Israel redeployed its forces from Gaza at the end of 2005, it retained effective control of the Gaza-Egypt border, as evident by the fact that the tripartite agreement for the operation of this border was signed by Israel, the PA and Egypt, under the auspices of the US. As well, Israeli officials have repeatedly reiterated that Israel will not allow the opening of the Gaza-Egypt border so long as Gilad Shalit, the Israeli soldier captured by Palestinian armed groups in June 2006, remains detained in Gaza; See for example "Top Defense Ministry official: If Shalit is not released, Rafah stays closed":

<http://www.ynet.co.il/english/articles/0,7340,L-3557573,00.html> and
<http://www.haaretz.com/hasen/spages/995739.html>

¹²⁹ Israel allowed 226 foreign nationals (Russians, Ukrainians, Americans and Norwegians) to leave Gaza through the Erez crossing with Israel on 2 January 2009:

http://www.ochaopt.org/gazacrisis/admin/output/files/ocha_opt_gaza_situation_report_2009_01_03_english.pdf

¹³⁰ http://www.ochaopt.org/gazacrisis/admin/output/files/ocha_opt_gaza_situation_report_2009_01_05_english.pdf

¹³¹ See Amnesty International, *Hamas' deadly campaign in the shadow of the war in Gaza* (Index: MDE 21/001/2009), 12 February 2009:

<http://www.amnesty.org/en/library/asset/MDE21/001/2009/en/9f210586-f762-11dd-8fd7-f57af21896e1/mde210012009en.html>

¹³² According to OCHA, which monitors implementation of the Agreement on Movement and Access (AMA), the Rafah crossing has been closed since 7 June 2007. See OCHA's *Movement and Access* reports (<http://www.ochaopt.org>). For the text of the AMA, see:

<http://www.mfa.gov.il/MFA/Peace+Process/Reference+Documents/Agreed+documents+on+movement+and+access+from+and+to+Gaza+15-Nov-2005.htm>

¹³³ The Israeli government stands alone in the international community in contending that the Fourth Geneva Convention does not apply to the OPT.

¹³⁴ For analysis of Israel's policy of punitive and security house demolition as a war crime, see Amnesty International, *Israel and the Occupied Territories: Under the rubble: House demolition and destruction of land and property* (Index: MDE 15/033/2004), 17 May 2004:

<http://www.amnesty.org/en/library/info/MDE15/033/2004>

¹³⁵ ICRC, Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War, p. 225.

¹³⁶ There is no clear definition of direct participation in hostilities in international law. But there is consensus that some activities, such as use of weapons to commit acts of violence against enemy forces, would constitute direct participation.

¹³⁷ Article 8(2)(b)(i).

¹³⁸ The authoritative ICRC Commentary on the Additional Protocols to the Geneva Conventions interprets the expression "definite military advantage anticipated" by stating that "*it is not legitimate to launch an attack which only offers potential or indeterminate advantages.*"

¹³⁹ Rome Statute, Article 8(2)(b)(iv).

¹⁴⁰ ICRC, Customary International Humanitarian Law, Volume I, Rules, Rule 156, p. 589. Article 8(2)(b)(i).

¹⁴¹ Rome Statute, Article 8(2)(a)(iv).

¹⁴² Rome Statute of the International Criminal Court, Article 8(2)(b)(xxiii).

¹⁴³ Rome Statute, Article 8(2)(b)(iii),(xxiv) and (xxv).

¹⁴⁴ “[T]he Court considers that the protection offered by human rights conventions does not cease in case of armed conflict, save through the effect of provisions for derogation of the kind to be found in Article 4 of the International Covenant on Civil and Political Rights”, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004, ICJ reports 2004. See also Human Rights Committee, General Comment 31, para. 11: “[T]he Covenant applies also in situations of armed conflict to which the rules of international humanitarian law are applicable. While, in respect of certain Covenant rights, more specific rules of international humanitarian law may be especially relevant for the purposes of the interpretation of Covenant rights, both spheres of law are complementary, not mutually exclusive.” General Comment 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant.

¹⁴⁵ Human Rights Committee, General Comment 31, para. 10.

¹⁴⁶ Committee on Economic, Social and Cultural Rights, General Comment 14: The right to the highest attainable standard of health (Article 12), para. 29. Adopted at the Twenty-second session (2000).

¹⁴⁷ In the course of fighting in an armed conflict, the standard of what constitutes a violation of the right to life is informed by applicable international humanitarian law.

¹⁴⁸ Committee on Economic, Social and Cultural Rights, General Comment 15, The right to water, UN Doc. E/C.12/2002/11 (2002).

¹⁴⁹ Committee on Economic, Social and Cultural Rights, General Comment 7, Forced evictions, and the right to adequate housing (Sixteenth session, 1997), UN Doc. E/1998/22, annex IV at 113 (1997), para. 4.

¹⁵⁰ Committee on Economic, Social and Cultural Rights, General Comment 7, Forced evictions, and the right to adequate housing (Sixteenth session, 1997), UN Doc. E/1998/22, annex IV at 113 (1997), para. 7.

¹⁵¹ The right to an effective remedy for victims of human rights violations is enshrined in Article 2(3) of the ICCPR. It is also recognized in Article 8 of the Universal Declaration of Human Rights, Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 39 of the Convention on the Rights of the Child, Article 3 of the 1907 Hague Convention concerning the Laws and Customs of War on Land, Article 91 of Additional Protocol I, Article 75 of the Rome Statute of the International Criminal Court and Article 7 of the African Charter on Human and Peoples' Rights.

¹⁵² Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law (Basic principles on the right to a remedy and reparation), adopted and proclaimed by UN General Assembly resolution 60/147 of 16 December 2005, UN Doc. A/RES/60/147.

¹⁵³ For example, the ICCPR, Article 2(3), and the Arab Charter on Human Rights, Article 9.

¹⁵⁴ ICRC, Customary International Law, Volume I, Rules, Rule 150.

¹⁵⁵ ICRC, Customary International Law, Volume I, Rules, Rule 150.

¹⁵⁶ ICRC, Customary International Law, Volume I, Rules, Rule 139.

¹⁵⁷ <http://idfspokesperson.com/2009/04/22/idf-announcement-findings-from-cast-lead-investigations>

¹⁵⁸ See Amnesty International, *Israel/Occupied Palestinian Territories: Israeli army probe lacks credibility and is no substitute for independent investigation*, 23 April 2009: <http://www.amnesty.org/en/for-media/press-releases/israeloccupied-palestinian-territories-israeli-army-probe-lacks-credibil>



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Index: MDE 15/015/2009
July 2009

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