

'BLACK FRIDAY': CARNAGE IN RAFAH DURING 2014 ISRAEL/GAZA CONFLICT

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EXECUTIVE SUMMARY

On 8 July 2014, Israel launched a military operation codenamed Operation Protective Edge, the third major offensive in Gaza since 2008. It announced that the operation was aimed at stopping rocket attacks from Gaza on Israeli civilians. A ground operation followed, launched on the night of 17 July. According to the Israeli army, one of the primary objectives of the ground operation was to destroy the tunnel system constructed by Palestinian armed groups, particularly those with shafts discovered near residential areas located in Israel near the border with the Gaza Strip.

On 1 August 2014 Israel and Hamas agreed to a 72-hour humanitarian ceasefire that would take effect from 8am that day. Three weeks after Israel launched its military offensive on Gaza, thousands of Palestinians who had sought refuge in shelters or with relatives prepared to return to their home during the anticipated break in hostilities.

In Rafah, the southernmost city in the Gaza strip, a group of Israeli soldiers patrolling an agricultural area west of the border encountered a group of Hamas fighters posted there. A fire fight ensued, resulting in the death of two Israeli soldiers and one Palestinian fighter. The Hamas fighters captured an Israeli officer, Lieutenant Hadar Goldin, and took him into a tunnel. What followed became one of the deadliest episodes of the war; an intensive use of firepower by Israel, which lasted four days and killed scores of civilians (reports range from at least 135 to over 200), injured many more and destroyed or damaged hundreds of homes and other civilian structures, mostly on 1 August.

In this report, Amnesty International and Forensic Architecture, a research team based at Goldsmiths, University of London, provide a detailed reconstruction of the events in Rafah from 1 August until 4 August 2014, when a ceasefire came into effect. The report examines the Israeli army's response to the capture of Lieutenant Hadar Goldin and its implementation of the Hannibal Directive – a controversial command designed to deal with captures of soldiers by unleashing massive firepower on persons, vehicles and buildings in the vicinity of the attack, despite the risk to civilians and the captured soldier.

The report recounts events by connecting various forms of information including: testimonies from victims and witnesses including medics, journalists, and other human rights defenders in Rafah; reports by human rights and other organizations; news and media feeds, public statements and other information from Israeli and Palestinian official sources; and videos and photographs collected on the ground and from the media.

An Israeli infantry officer described to Israeli NGO Breaking the Silence the events that ensued after the Hannibal Directive was announced on the radio:

“The minute ‘Hannibal Directive’ is declared on the radio, there are consequences. There’s a fire procedure called the ‘Hannibal fire procedure’ – you fire at every suspicious place that merges with a central route. You don’t spare any means.”

He reported that the initial burst of fire lasted three hours. An artillery soldier said his battery was “firing at a maximum fire rate” right into inhabited areas. According to the report of an Israeli

military inquiry, more than 2,000 bombs, missiles and shells were fired in Rafah during 1 August, including 1,000 in the three hours following the capture.

According to the Israeli army, the initial strikes aimed to stop the movement of all “suspicious” persons and vehicles and isolate the area until the arrival of ground forces and to target known and suspected tunnel shafts, which meant bombing residential buildings and agricultural installations suspected of harbouring tunnel exits or entrances.

Another officer explained the logic of the operation, including potentially killing the captured soldier: “In such an event you prefer a killed soldier rather than a soldier in enemy hands, like [Gilad] Shalit. I told myself ‘even if I bring back a corpse I have brought back the missing person’.”

As the strikes began, the roads in eastern Rafah were full of disoriented civilians moving in all directions. Believing a ceasefire had begun, they had returned – or were returning – to their homes. Many decided to turn around, attempting to flee under a barrage of bombs and gunfire. Palestinian witnesses described jets, drones, helicopters and artillery raining fire at pedestrians and vehicles at the intersections, indiscriminately hitting cars, ambulances, motorbikes and pedestrians. “You see the hysteria of the children, destruction, and mushroom clouds, and you try to get as far away from them as you can,” said Wa’el al-Namla, a local resident and father of two.

Inam Ouda Ayed bin Hammad, a local resident, told Amnesty International that, after 9am on 1 August, she noticed the shelling intensifying and missiles landing in close vicinity to their home in the al-Tannur neighbourhood of Rafah. She and her family were on the streets seeking shelter elsewhere when a bomb hit a building nearby and killed her son Anas, her cousin Wafa and at least 16 others, as well as injuring scores of other fleeing civilians.

One of the scenarios that the Israeli military considered was that the captured soldier, Lieutenant Goldin, had been wounded and taken to the Abu Youssef al-Najjar hospital, the medical facility closest to the area of capture. The flood of casualties started coming into the hospital at about 10am, according to medical staff. The attacks around the hospital grew nearer and more frequent as the day went on. Studying photographs of the hospital, Forensic Architecture noted both internal and external damage. On the satellite image taken on 14 August, Forensic Architecture detected one crater about 120 metres south-west of the hospital and three craters about the same distance north-east of the hospital.

Patients, staff and persons seeking refuge at the hospital proceeded to evacuate the building en masse in a rush when the attacks intensified and it was believed that the hospital might be subjected to attack. An organized evacuation took place in the evening. By about 7pm the hospital was closed and reporters claimed that the entire neighbourhood around the Abu Youssef al-Najjar hospital was under artillery fire.

On the same day three ambulances from the hospital went to collect wounded people near a mosque in Rafah; one ambulance was hit by what appeared to be three drone-launched missiles and completely destroyed. The three medics and all the wounded within the ambulance were burnt to death. A second ambulance left, while the other, which remained to collect the wounded and dead, was hit by another apparent drone strike.

The pounding of Rafah continued for three days after the initial strikes of 1 August, even after

Lieutenant Goldin was declared dead by an Israeli rabbinical court and buried on 2 August.

There is overwhelming evidence that Israeli forces committed disproportionate, or otherwise indiscriminate, attacks which killed scores of civilians in their homes, on the streets and in vehicles and injured many more, including by repeatedly firing artillery and other imprecise explosive weapons in densely populated civilian areas during the attacks on Rafah between 1 and 4 August. In some cases, there are indications that they directly fired at and killed civilians, including some who were fleeing.

Public statements made by Israeli army commanders and soldiers after the conflict provide compelling reasons to conclude that some attacks that killed civilians and destroyed homes and property may have been intentionally carried out and motivated by a desire for revenge, to teach a lesson to, or to punish the population of Rafah for the capture of Lieutenant Goldin.

There is consequently strong evidence that many such attacks in Rafah between 1 and 4 August were serious violations of international humanitarian law and constituted grave breaches of the Fourth Geneva Convention or other war crimes.

The UN Independent Commission of Inquiry on the 2014 Gaza Conflict examined the Israeli army attack on Rafah on 1 August and also raised serious concerns about the conformity of the Israeli army actions on that day with international law. The Commission investigated attacks it considered disproportionate or otherwise indiscriminate and found that in some cases they might amount to war crimes. The Commission also concluded that the Israeli army did not appear to have taken precautions to verify that targets of attacks were lawful military objectives and to choose the weapons which could avoid or minimize civilian casualties and destruction to civilian structures.

Israeli army commanders and officers can operate in confidence that they are unlikely to be held accountable for violations of international law due to the pervasive climate of impunity that has existed for decades. This is due, in large part, to the lack of independent, impartial and effective investigations. Despite the massive toll that Operation Protective Edge had on civilians in Gaza, almost one year after the conflict, military prosecutors have indicted only three soldiers for one incident of looting. A significant number of cases have been closed on the basis that no crimes were committed (this is the case in the majority of such decisions) or that there was insufficient evidence to indict.

With regard to Israeli army operations in Rafah between 1 and 4 August, the Israeli authorities have failed to conduct genuine, effective, and prompt investigations into any of the allegations of serious violations of international humanitarian law documented in this report, let alone prosecute individuals, including commanders and civilian superiors, suspected of committing or ordering related crimes under international law. They have failed to ensure that victims have effective access to justice, or to provide them with full and prompt reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

The events need to be independently and impartially investigated. Amnesty International's view is that no official body capable of conducting such investigations currently exists in Israel. It is therefore calling on the Israeli authorities to co-operate fully with the ongoing preliminary examination by the Prosecutor of the International Criminal Court into the situation in the Occupied Palestinian Territories and any future investigations or prosecutions; to reform their domestic

mechanisms for investigating allegations of violations of international humanitarian law to ensure that it is independent, effective, prompt and transparent; to allow human rights organizations access to Gaza to investigate suspected violations of international law by all parties to the conflict; and to immediately and fully lift the blockade imposed on Gaza since 2007.

It is also asking the international community in general to support the role of the International Criminal Court in examining allegations of crimes under international law including those documented in this report, and to pressure the Israeli and Palestinian authorities to co-operate fully with the Office of the Prosecutor. All states should oppose punitive measures against Palestine for joining the International Criminal Court or for submitting information on Israeli violations to the Court or taking other steps to activate international justice mechanisms.

METHODOLOGY

AMNESTY INTERNATIONAL METHODOLOGY

Amnesty International has been unable to send a delegation of researchers to visit the Gaza Strip since the beginning of the conflict in July 2014. The Israeli authorities have refused, up to the time of writing this report, to allow Amnesty International and other international human rights monitors to enter the Gaza Strip through the Erez crossing with Israel, despite the organization's repeated requests since the beginning of the conflict to do so. The Egyptian authorities have also not granted Amnesty International permission to enter the Gaza Strip through the Rafah crossing with Egypt, again despite the organization's repeated requests to do so.

Amnesty International has consequently had to carry out research remotely, supported by two fieldworkers based in Gaza who were contracted to work with the organization for periods of several weeks. They travelled extensively within the Strip, visiting many of the sites described in this report, some more than once, as soon as possible after the attacks took place, interviewing dozens of victims and eyewitnesses and taking photos and videos of the sites. The organization consulted on the interpretation of photos and videos with military experts. It extensively reviewed relevant statements by the Israeli military and other official bodies. Amnesty International also studied relevant documentation produced by UN agencies, Palestinian, Israeli and other non-governmental organizations, local officials, media, and others who monitored the conflict, and consulted with them as needed.

Despite these efforts, the lack of access for Amnesty International's researchers, as well as military who would have accompanied them, has clearly hindered the work of Amnesty International, as it has for other human rights organizations wishing to document violations of international law in the Gaza Strip. First-hand examination of sites that have been attacked – both in damaged buildings and elsewhere – help monitors assess how, with what and why something was targeted, but the evidence disappears quickly. Suffering from a great shortage of living space, residents of the Gaza Strip started almost immediately after the conflict, to clear up the rubble and use what could be salvaged to rebuild their homes, as after other recent conflicts. Fragments of munitions which would have helped identify which weapons were used have been carried off from the rubble of destroyed homes by civil defence workers, souvenir hunters and others.¹

Governments who wish to hide their violations of human rights from the outside world have frequently banned Amnesty International from accessing the places in which they have been committed. Although Amnesty International researchers have consistently been able to access Israel and the occupied West Bank, they have not been allowed by the Israeli government to enter the Gaza Strip through the Erez crossing since June 2012. The UN Fact-Finding Mission on the Gaza Conflict, which was set up by the UN Human Rights Council and reported in 2009 on violations of international law by all sides during Israel's Operation Cast Lead in the Gaza Strip, criticized this

¹ For instance, some individuals pick up fragments of munitions as souvenirs or to use to make practical or decorative objects. See for example AFP, *Remnants of war become art in Gaza*, AFP, 2 October 2014, <http://www.businessinsider.com/afp-remnants-of-war-become-art-in-gaza-2014-10?IR=T> (last accessed 12 July 2015).

policy, stating: “The Mission is of the view that the presence of international human rights monitors would have been of great assistance in not only investigating and reporting but also in the publicizing of events on the ground.”² It added: “The presence of international human rights monitors is likely to have a deterrent effect, dissuading parties to a conflict from engaging in violations of international law.”³

On 8 October 2014, Amnesty International sent a memorandum to the three Israeli mechanisms investigating aspects of Operation Protective Edge – the State Comptroller, the army’s General Staff Mechanism for Fact-Finding Assessments, and the Knesset Foreign Affairs and Defense Committee – as well as to the army’s Chief of General Staff, the Prime Minister and the Ministers of Defense, Justice and Foreign Affairs. The memorandum set out some of the concerns Amnesty International had about the conduct of Israeli forces during Operation Protective Edge and requested responses on these. It requested information on what specific factors were taken into account prior to the deployment of weapons and munitions which have indiscriminate effects when used in densely populated areas, such as mortars and artillery, and on what concrete steps were taken by the IDF to avoid their use in situations where civilians would be at risk. It also requested clarification regarding the criteria used by the IDF to assess the risk to civilians when selecting pre-identified targets for attack and at what point in advance of the proposed attack and at what level of seniority this was done. It asked for details of how the decision was made to attack civilian objects, such as hospitals, ambulances, schools, homes, and other essential infrastructure, on what criteria and at what level of command seniority. It also requested information on the precautions taken in planning and executing attacks on military targets, including Palestinian fighters, to ensure that any harm likely to be caused to civilians in carrying out such attacks would not be disproportionate. It also asked for details of evidence the IDF might have of violations by Hamas and Palestinian armed groups.

In November 2014 a reply was received from the State Comptroller which described the focus of their inquiry and accepted Amnesty International’s proposal for a meeting. Amnesty International wrote back to the State Comptroller to seek a date for such a meeting but had not received a reply to this request before this report was finalized. The organization has received no other response to the memorandum it sent in October 2014.

On 15 July 2015, Amnesty International addressed letters to each of the authorities it had contacted on 8 October 2014 to remind them of the outstanding requests to them and to request additional information on cases highlighted in this report. It reiterated its wish to meet the authorities, either before or after the publication of this report.

² UN Fact-Finding Mission on the Gaza Conflict, *Human Rights in Palestine and other Occupied Arab Territories: Report of the United Nations Fact-Finding Mission on the Gaza Conflict (A/HRC/12/48)*, 23 September 2009, para. 1734, unispal.un.org/UNISPAL.NSF/0/25184E52D3E5CDBA8525763200532E73 (last accessed 12 July 2015).

³ UN Fact-Finding Mission on the Gaza Conflict, *Human Rights in Palestine and other Occupied Arab Territories: Report of the United Nations Fact-Finding Mission on the Gaza Conflict (A/HRC/12/48)*, 23 September 2009, para. 1747, unispal.un.org/UNISPAL.NSF/0/25184E52D3E5CDBA8525763200532E73 (last accessed 12 July 2015).

FORENSIC ARCHITECTURE METHODOLOGY

WITNESS TESTIMONIES

Forensic Architecture, a research team based at Goldsmiths, University of London, specializes in urban and architectural analysis of conflict. In the context of research for this report, its methodologies were a response to the limitations of site access.

SITE SURVEY

Forensic Architecture's core team could not access Gaza because of the same restrictions faced by Amnesty International. It therefore worked with a number of field researchers and photographers who documented sites of incidents for them. The photographers followed basic protocols for forensic photography. These included, where possible, step photography, the introduction of scale indicators to each frame, panoramic documentation, GPS location, and the keeping of a handwritten diary of description related to each photograph.

On several occasions Forensic Architecture requested additions to testimonies collected by Amnesty International, primarily to clarify spatial information. These additions included asking witnesses to mark their locations on maps, plans or satellite images. Forensic Architecture located elements of the witness testimonies in space and time and plotted the movement of witnesses through a three-dimensional model of urban spaces. It also modelled and animated the testimony of several witnesses, combining spatial information obtained from separate testimonies and other sources in order to reconstruct incidents.

SATELLITE IMAGE ANALYSIS

The Pléiades satellite constellation, which makes available high-definition, multi-spectral photographs, became operational in 2012. It makes available images of Israel and the Occupied Palestinian Territories at a resolution of 0.5 metres a pixel. It is a resolution that US image satellites, which have previously had a near monopoly on the satellite image market, do not provide. The latter is currently limited to a resolution of 1 metre a pixel due to agreements between Israel and the USA.⁴ The Gaza/Israel conflict of 2014 is the first Israeli-Palestinian conflict in which high-resolution satellite imagery was made publicly available (and thus obtained by Amnesty International and Forensic Architecture). The satellite imagery provided was used to assess site condition by comparing "before" and "after" images of sites of attacks under analysis. The "before" photograph provides the baseline against which the "after" image is measured as change or environmental destruction.

Three satellite photographs are relevant to this study, dated 30 July, 1 August and 14 August, all taken at around 11.39am. The frame of the photographs aligns from the west with the Gaza-Egypt border. The image of 1 August reveals a rare overview of a moment within the conflict. The time at which the photograph was taken, 11.39am, is only two and a half hours after the ceasefire collapsed, at the heart of the operation.

Forensic Architecture's analysis of the satellite imagery was corroborated by John Pines, a satellite

⁴ The agreement dates back to 1998. See, for example, Shawn L. Twing, "U.S. Bans High-Resolution Imagery of Israel", *Washington Report on Middle East Affairs*, September 1998, <http://www.wrmea.org/1998-september/u.s.-bans-high-resolution-imagery-of-israel.html> (last accessed 12 July 2015).

image analyst and former intelligence officer in the British military.

Further analysis of Pléiades and other satellite data was undertaken with Dr Jamon Van Den Hoek, a remote sensing scientist based at the Godrad Flight Centre at the National Aeronautics and Space Administration (NASA) in Washington. He is also a “geospatial intelligence leader” in the geography programme of Oregon State University. Dr Van Den Hoek’s method is based on Panchromatic Comparison, as well as Normalized Difference Vegetation Index (NDVI) analysis of data he gathers from open-source Landsat earth observation satellite photographs and the multi-spectral Pléiades. By overlaying two satellite photographs from two separate dates he can show changes on the ground, structures and in the condition of vegetation between the two photographs. The resulting remote sensing images can thus reveal the location of craters and the path of vehicles when they move off road and crush vegetation in fields, information that will not be visible in optical images. Studied individually and in relation to each other, these photographs provided a useful resource to reconstruct the force movement, blasts and other events of 1-4 August 2014.

MEDIA ANALYSIS

Forensic Architecture scanned a large number of Arabic, Hebrew and English-language sources, many of which were also consulted by Amnesty International. They included Palestinian and Israeli media sources, Palestinian social media sources and photographs and video clips from photographic agencies and image banks.⁵ They also included official Israeli and Palestinian statements appearing on IDF and Hamas websites; accounts by Palestinian NGOs, such as the Al Mezan Center for Human Rights, the Palestinian Centre for Human Rights (PCHR) and Al-Haq; testimonies given by Israeli soldiers to Breaking the Silence, an Israeli NGO, and published on their website; video recordings from the local ambulance services in Gaza; hospital logs which document calls to the emergency office; photographs and videos provided by civilians and activists who witnessed events. Out of these sources it extracted further written, filmed and photographic source materials.

VIDEO TO SPACE

While during the 2008-9 Gaza/Israel conflict there were a few independently shot videos uploaded onto social media, Forensic Architecture was able to retrieve a comparatively large amount of audiovisual material on social media in relation to the 2014 Gaza/Israel conflict. Photographs and videos taken by both journalists and citizens captured large amounts of spatial information about environments in which events were unfolding, including the architectural layout of sites, the location and the time of day. Video stills were collaged together to create a panoramic view of space. Working back from distinctive architectural features – for example, a water tower, a high building, a crossroads or a football pitch – Forensic Architecture located still images within the satellite photographs and three-dimensional models.

⁵ Key sources include: Palestinian media sources such as Ma’an, *Al-Rai*, Al Watan Voice, Quds Radio 102.7 FM; Palestinian social media sources, including Twitter and Facebook accounts; Israeli media sites such as Walla, NRG, Ynet and *Haaretz*, Israeli TV Channel 2 and Channel 10 (many of these sources included interviews with Israeli military staff, which is subject to censorship by the IDF and has been independently corroborated when possible); photographs and video clips from photographic agencies and image banks such as Getty, Reuters, Corbis and Anadolu Agency, as well as from AP, ITN and CBS.

GEO-SYNCHING

Geo-synching refers to the establishment of space-time co-ordinates of an event. To reconstruct the events of 1-4 August, Forensic Architecture employed digital maps and models in order to locate evidence such as oral description, photography, video and satellite imagery in space and time. As such the different media were used to reconstruct events, and to verify findings by cross-referencing different sources. When the metadata in an image or a clip file was intact, Forensic Architecture identified by using Adobe Lightroom and Adobe Bridge. The geo-synching is in this case a straightforward process, undertaken on software platforms such as QGIS. However, material from social media often came without metadata, or with the metadata damaged or inaccurate. In the absence of digital time markers Forensic Architecture used analogue or “physical clocks” – time indicators in the image – such as shadow and smoke plumes analysis to locate sources in space and time.

METADATA ANALYSIS

Photographs and videos sourced from social media, activists and civilians on the ground often did not have accurate metadata, as cameras are not always set to the right time and date. Forensic Architecture investigated the accuracy of metadata by corroborating the footage with other verified events. Furthermore, Forensic Architecture was able to correct wrongly set metadata, by marking the time difference between the images in a sequence of photographs, and synching the sequence with a recognized and timed event.

SHADOW ANALYSIS

Forensic Architecture built a digital model of Rafah to locate witnesses and photographs in space, as well as to use the model as a digital sundial; all standard architectural modelling software currently come with shadow simulators. To establish the time of a photograph Forensic Architecture matched these digital shadows with shadows captured in a photograph or a video. A match would provide information about the location, orientation and time of the image representation. Another use for shadow is that the length of shadows, seen on satellite imagery, provides information about the height of built volumes.

In order to time video footage through the observed shadows Forensic Architecture undertook a threefold process. First it located the image or still from the video geographically and calculated the camera angle. Using three-dimensional modelling and animation software – such as Cinema 4D – that offer camera calibration features, Forensic Architecture analysed the perspective and lens distortion of the found footage and matched it to a digital camera perspective. Forensic Architecture then ran a digital shadow simulation, by inputting the location co-ordinates and seasonal information, in order to find the matching shadows and determine the time of capture of the footage.

In many cases the process was supplemented by an analogue shadow calculation, by architecturally analysing a one-point or two-point perspective, drawing the featuring buildings and shadows into a plan and using an analogue sun diagram to calculate the time of capture. This process is extremely sensitive to measurements and could only be employed with regard a small portion of the footage, where shadows are clear and orientation can be clearly defined. When this method was used it was corroborated with other supporting evidence or was used to support alternative time indications. The margin of error is five to 10 minutes.

PLUME AND SMOKE CLOUD ARCHITECTURE

After a bomb blasts its smoke plume goes through several distinct phases. The plume forms into a

mushroom cloud that slowly dissipates. Studying photographic representation of plumes allowed Forensic Architecture to estimate how long after a strike the photograph was taken. Each explosion from air-dropped munitions results in a smoke plume whose form is unique to the moment and the strike. In this way, Forensic Architecture undertook detailed morphological analysis to identify the same strike in different pieces of footage and to synchronize the footage based on the phase of plume growth being observed. This analysis therefore offered a way of linking evidence together in space and time. The process of synchronization and triangulation helped reconstruct the space and time sequence of unfolding events. Forensic Architecture also measured and compared the size of plumes as captures in different media sources in order to compare the plume caused by unknown strikes with known ones.

BACKGROUND

OCCUPIED PALESTINIAN TERRITORIES

Israel has been the occupying power with overall control of the Occupied Palestinian Territories, the Gaza Strip and the West Bank including East Jerusalem, since June 1967. The Oslo Accords agreed between Israel and the Palestine Liberation Organization (PLO, the representative of the Palestinian people) in 1994 provided for a degree of Palestinian self-rule in parts of the West Bank and the Gaza Strip.

Neither the establishment of the Palestinian Authority (PA) in 1994 nor the recognition of Palestine as a non-member observer state at the UN General Assembly in 2012 changed the status of the Occupied Palestinian Territories under international law. They remain territories under Israeli military occupation over which Israel maintains effective control, including control of the population, natural resources and, with the exception of Gaza's short southern border with Egypt, their land and sea borders and air space.

In 2006 Hamas won elections to the PA's legislature. This led a number of states to impose economic and other sanctions and increased tensions with Fatah, Hamas's rival party, culminating in violent conflict. Within Gaza, armed clashes between security forces and militias loyal to Fatah on the one hand and Hamas on the other escalated in the first half of 2007 and resulted in Hamas seizing control of PA institutions in the Gaza Strip. Following this, Hamas installed a de facto administration that has remained in power there since June 2007. For almost seven years two separate Palestinian governments operated – one dominated by the Fatah party in the West Bank, and one run by the Hamas party in the Gaza Strip. This situation persisted until unity talks resulted in the appointment of a “national consensus” government, including four ministers from the Gaza Strip, which was sworn into office by Mahmoud Abbas, Palestinian President, on 2 June 2014. The cabinet of independent technocrats was tasked with running civilian affairs in both areas and preparing for parliamentary and presidential elections. However, significant disagreements between Fatah and Hamas remain unresolved, no date for elections has been set and the Hamas de facto administration has continued to control government institutions and the security forces in practice.

OPERATION PROTECTIVE EDGE

On 8 July 2014, Israel launched a military operation codenamed Operation Protective Edge, the third major offensive in Gaza since 2008. It announced that the operation was aimed at stopping rocket attacks from Gaza on Israeli civilians. A ground operation followed, launched on the night of 17 July. According to the Israeli army, one of the primary objectives of the ground operation was to destroy the tunnel system constructed by Palestinian armed groups, particularly those with shafts discovered near residential areas located in Israel near the border with the Gaza Strip.

The scale of death, destruction, displacement and injury wrought by Israeli forces in the Gaza Strip during the 50-day war in July and August 2014 was unprecedented. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), over 2,220 people were killed in the Gaza Strip, at least 1,492 of whom were civilians – 551 children, 642 men and 299 women.⁶ More than 11,000

⁶ OCHA, *Fragmented Lives: Humanitarian Overview 2014*, March 2015,

Palestinians were injured, up to 10% of them permanently.⁷ At the height of the hostilities, an estimated 485,000 people in the Strip were internally displaced, living in dire conditions in emergency shelters in UN or government schools, in public buildings, or with host families.⁸ There are no bomb shelters or warning systems to help protect civilians in the Gaza Strip, and no place was truly safe during the hostilities; on several occasions civilians were killed when UN schools designated as emergency shelters came under fire.

Across the Gaza Strip, homes were destroyed or severely damaged in Israeli attacks, and in some areas entire neighbourhoods were left in rubble. According to damage assessments conducted by UN agencies and the Ministry of Public Works and Housing, over 19,000 housing units were destroyed or rendered uninhabitable, leaving approximately 100,000 people homeless, while nearly 150,000 other housing units were damaged but remained inhabitable.⁹ This added to a substantial housing deficit that predated the 2014 hostilities, due largely to severe restrictions on imports of construction materials imposed by Israel as part of the blockade since June 2007, and the destruction of homes in the 2008-2009 and 2012 conflicts. The essential infrastructure in Gaza was seriously affected; not only was its only power plant severely damaged, but the damage to the water and wastewater system left 20-30% of households without access to municipal water.¹⁰ Commercial property, farmland, agricultural infrastructure, health facilities, and educational institutions all suffered heavy damage during the conflict. Gaza's economy, already heavily aid-dependent from the cumulative effects of seven years of Israeli blockade, was further devastated, with almost 45% of the workforce unemployed in the fourth quarter of 2014, one of the highest rates in the world.¹¹ A year after the conflict, reconstruction has barely begun, due to continuing Israeli restrictions on imports, unfulfilled donor pledges, and ongoing disputes between the national consensus government based in Ramallah and the Hamas authorities in Gaza.

Israeli forces committed serious violations of international humanitarian law, including war crimes, during the hostilities. Israeli violations included direct attacks on civilians and civilian objects using precision weaponry, and attacks using munitions such as artillery, which cannot be precisely

http://www.ochaopt.org/documents/annual_humanitarian_overview_2014_english_final.pdf (last accessed 12 July 2015).

⁷ OCHA, *Humanitarian Bulletin, December 2014*, January 2015, p. 2, http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_01_27_english.pdf (last accessed 12 July 2015).

⁸ OCHA, *Occupied Palestinian Territory: Gaza Emergency Situation Report*, 4 September 2014, p. 2, http://www.ochaopt.org/documents/ocha_opt_sitrep_04_09_2014.pdf (OCHA, *Gaza Emergency Situation Report*, 4 September 2014).

⁹ OCHA, *Gaza One Year On*, May 2015, <http://gaza.ochaopt.org/2015/05/latest-damage-assessments-reveal-over-12500-housing-units-destroyed-over-the-summer-hostilities-in-gaza/> (last accessed 12 July 2015).

¹⁰ OCHA, *Gaza Emergency Situation Report*, 4 September 2014, p. 3, http://www.ochaopt.org/documents/ocha_opt_sitrep_04_09_2014.pdf (last accessed 12 July 2015).

¹¹ OCHA, *Humanitarian Bulletin, January 2015*, 26 February 2015, p. 8, http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_02_25_english.pdf (last accessed 12 July 2015).

targeted, on very densely populated residential areas. In addition to the contribution made by this report, Amnesty International documented and analysed Israeli violations, including attacks that constituted war crimes, in documents issued in 2014.¹² Amnesty International and Forensic Architecture have also collaborated to create the Gaza Platform, an interactive map of attacks by Israeli forces on Gaza between 8 July and 26 August 2014.¹³ The tool enables its users to explore a vast collection of data, gathered on the ground by the Al Mezan Center for Human Rights and the Palestinian Centre for Human Rights (PCHR), as well as by Amnesty International fieldworkers, during and after the conflict. It helps to reveal trends by making links between dispersed individual events and detecting patterns of attacks across the 50-day time span of the conflict, thereby contributing to an assessment of the conduct of Israeli forces and its conformity or otherwise with the provisions of international humanitarian law.

During the conflict, Palestinian armed groups fired thousands of unguided rockets and mortars towards Israel, in many cases directing them towards Israeli civilians and civilian objects. Such attacks violate international humanitarian law and some constituted war crimes. These attacks killed six civilians, including a child, in Israel, wounded others, and damaged civilian property. The conduct of Palestinian armed groups, including firing from residential areas and the use of indiscriminate munitions that cannot be accurately directed at a military target, also endangered civilians in the Gaza Strip. In one case, the available evidence indicates that a rocket fired by a Palestinian armed group on 28 July 2014 killed 11 children and two adults in the al-Shati refugee camp, north-west of Gaza City. Amnesty International has documented and analysed these attacks in detail.¹⁴

Within Gaza during the period of the conflict, Hamas forces also committed serious human rights abuses, including abductions, torture, and summary and extrajudicial executions. They targeted Palestinians they accused of assisting Israel, subjecting at least 23 of them to summary, extrajudicial executions. Hamas forces also abducted or attacked members and supporters of Fatah, their main rival political organization within Gaza, including former members of the PA security forces, torturing some of them. Amnesty International has published a report on these abuses.¹⁵

¹² Amnesty International, *Israel and the Occupied Palestinian Territories: Evidence of medical workers and facilities being targeted by Israeli forces in Gaza* (Index: MDE 15/023/2014), 7 August 2014, <https://www.amnesty.org/en/documents/mde15/023/2014/en>; Amnesty International, *Families under the rubble: Israeli attacks on inhabited homes* (Index: MDE 15/032/2014), 5 November 2014, <https://www.amnesty.org/en/documents/mde15/032/2014/en>; Amnesty International, *'Nothing is immune': Israel's destruction of landmark buildings in Gaza* (Index: MDE 15/029/2014), 9 December 2014, <https://www.amnesty.org/en/documents/mde15/029/2014> (all last accessed 12 July 2015).

¹³ See <https://gazaplatfrom.amnesty.org/> (last accessed 12 July 2015).

¹⁴ Amnesty International, *Unlawful and Deadly: Rocket and mortar attacks by Palestinian armed groups during the 2014 Gaza/Israel conflict* (Index: MDE 21/1178/2015), 26 March 2015, <https://www.amnesty.org/en/documents/mde21/1178/2015/en> (last accessed 12 July 2015).

¹⁵ Amnesty International, *'Strangling Necks' Abductions, torture and summary killings of Palestinians by Hamas forces during the 2014 Gaza/Israel conflict* (Index: MDE 21/1643/2015), 26 May 2015, <https://www.amnesty.org/en/documents/mde21/1643/2015/en> (last accessed 12 July 2015).

HANNIBAL DIRECTIVE

The Hannibal Directive is a secret Israeli army operational order designed to deal with the event of a capture of an Israeli soldier by armed forces of non-state organizations.

The origins of the Directive can be traced back to May 1985 when Israel and the Popular Front for the Liberation of Palestine - General Command (PFLP-GC) signed a prisoner exchange deal that led to the release of 1,150 Palestinian prisoners in exchange for three Israeli soldiers captured in 1982. The prisoner exchange was controversial with those in Israel, both in the military and general public, who felt that the price of the exchange was too high and would endanger Israel's security. The military feared the deal would encourage further attempts at capturing Israeli soldiers and create public pressure to release prisoners.

The Israeli army drew up the Directive shortly after Hizbullah, a political party with an armed wing based in Lebanon, captured two Israeli soldiers in southern Lebanon in June 1986. The Israeli army exposed the existence of the Directive in 2003 and some of its guiding principles have since been discussed in Israeli media.

In the event of a situation in which an Israeli soldier or Israeli soldiers are captured, the Directive authorizes Israeli army field commanders to activate artillery fire and air force strikes around the entire area where the capture has occurred without seeking permission from headquarters, which would be required in other circumstances.¹⁶ "The kidnapping must be stopped by all means even at the price of hitting and harming our own forces", Israeli media have reported the Directive as stating.¹⁷ The Directive apparently does not, however, acknowledge the potential increased risk to civilians posed by such an approach.

The Directive was designed to deal in particular with the scenario of soldiers captured in a getaway vehicle. A revealed part of the Directive reads: "If the vehicle or the abductors do not stop, single-shot (sniper) fire should be aimed at them, deliberately, in order to hit the abductors, even if this means hitting our soldiers. In any event, everything will be done to stop the vehicle and not allow it to escape."¹⁸

Asa Kasher, a professor of Professional Ethics and Philosophy of Practice at Tel Aviv University who was involved in drafting the army's ethical code and was consulted in framing the Directive, has elaborated what "everything" means in this context. He said the Directive allows the Israeli army to risk the lives of soldiers during attempts to rescue them, but not to intentionally kill them.¹⁹ In an

¹⁶ Israeli TV Channel 10, "The moment you shoot anything that moves," 9 August 2014, <http://m.nana10.co.il/Article/?ArticleID=1074600&sid=120&pid=55&service=news> (last accessed 12 July 2015).

¹⁷ See, for example, Sara Leibovich-Dar, "The Hannibal Procedure", *Haaretz*, 21 May 2003, <http://www.haaretz.com/the-hannibal-procedure-1.9412> (last accessed 12 July 2015).

¹⁸ Sara Leibovich-Dar, "The Hannibal Procedure", *Haaretz*, 21 May 2003, <http://www.haaretz.com/the-hannibal-procedure-1.9412> (last accessed 12 July 2015).

¹⁹ Israeli TV Channel 10, "The moment you shoot anything that moves," 9 August 2014, <http://m.nana10.co.il/Article/?ArticleID=1074600&sid=120&pid=55&service=news> (last accessed 12 July 2015).

interview in 2003, Yossi Peled, then chief of the Northern Command (the command responsible for the northern border with Syria and Lebanon) and one of the authors of the original Directive, explained what risk he thought was reasonable: "I wouldn't drop a one-ton bomb on the vehicle, but I would hit it with a tank shell".²⁰

Beyond the Directive's official wording, the Israeli army appears to have developed an "oral tradition" whereby soldiers have been made to understand that the death of captured soldiers is preferable to them being taken alive. According to this interpretation of the Directive, the damage that a captive would cause is considerably higher than the death of a soldier.²¹ In 1988 an Israeli officer was recorded briefing his soldiers as follows: "'an IDF [Israel Defense Forces] soldier was kidnapped' no longer features in our lexicon; we must stop the kidnapping at any price even if it means targeting our soldier. We prefer our soldier hit than in their hands".²² In 1999 Shaul Mofaz, then chief of staff of the IDF, explained: "In certain senses, with all the pain that saying this entails, an abducted soldier, in contrast to a soldier who has been killed, is a national problem."²³

The oral interpretation of the Directive seem to have been further reinforced when three operations by armed groups resulted in the capture of Israeli soldiers in the 2000s: Hizbullah's capture of two Israeli soldiers in 2000, Hamas's armed wing's capture of Israeli soldier Gilad Shalit through a cross-border tunnel in 2006 and Hizbullah's capture of two more soldiers in a cross-border raid the same year. Before Operation Cast Lead, the Israeli army's major incursion into Gaza in 2008-9, the commander of an infantry battalion told his soldiers he expected them to commit suicide rather than be abducted: "no soldier from the 51st Battalion can be kidnapped, at any cost, not in any circumstance. That can mean that a soldier should detonate his hand grenade and blow himself up [together] with the person trying to abduct him."²⁴ In 2011 Shalit was exchanged for 1,027, mostly Palestinian, prisoners.

2015).

²⁰ Sara Leibovich-Dar, "The Hannibal Procedure", *Haaretz*, 21 May 2003, <http://www.haaretz.com/the-hannibal-procedure-1.9412> (last accessed 12 July 2015).

²¹ Ronen Bergman, *By Any Means Necessary: Israel's Covert War for its POWs and MIAs* (in Hebrew), Kinneret, Zmora-Bitan, Dvir Publishing House, 2009.

²² See video on website of Israeli journal *The Seventh Eye* dated 14 August 2014, <http://www.the7eye.org.il/121821> (last accessed 12 July 2015).

²³ Interview with Shaul Mofaz in *Yedioth Achronoth*, 7 July 1999, cited in "Shots across the bow", *Haaretz*, 8 May 2003, <http://www.haaretz.com/shots-across-the-bow-1.10755> (last accessed 12 July 2015).

²⁴ Anshel Pfeffer, "IDF warns soldiers of kidnappings ahead of Gilad Shalit's release", *Haaretz*, 18 October 2011, <http://www.haaretz.com/print-edition/news/idf-warns-soldiers-of-kidnappings-ahead-of-gilad-shalit-s-release-1.390520> (last accessed 12 July 2015). Also see video entitled "The IDF Hannibal Protocol - IDF Commander Briefing Troops", uploaded on 16 October 2011, <https://www.youtube.com/watch?v=BvIP6yM15ws> (last accessed 12 July 2015).

'BLACK FRIDAY'

On 1 August 2014 Israel and Hamas agreed to a 72-hour humanitarian ceasefire that would take effect from 8am that day.²⁵ Four weeks after Israel launched a military offensive on Gaza, thousands of Palestinians who had sought refuge in makeshift shelters or with relatives prepared to return to their home during the anticipated break in hostilities.

In Rafah, the southernmost city in the Gaza strip, a group of Israeli soldiers patrolling an agricultural area west of the border encountered a group of Hamas fighters posted there. A fire fight ensued, resulting in the death of two Israeli soldiers and one Palestinian fighter. The Hamas fighters captured an Israeli officer, Lieutenant Hadar Goldin, and took him into a tunnel. What followed became one of the deadliest Israeli attacks during the war; an intensive use of firepower, which lasted four days, killed scores of civilians (reports range from at least 135 to over 200), injured many more and destroyed or damaged hundreds of homes and other civilian structures, mostly on 1 August.²⁶

ABOUT THE REPORT

In this report, Amnesty International and Forensic Architecture, a research team based at Goldsmiths, University of London, provide a detailed reconstruction of the events in Rafah from 1 August until 4 August 2014, when Israeli ground forces retreated to Gaza's borders, although the conflict lasted for three more weeks. The report exposes the Israeli army's response to the capture of Lieutenant Hadar Goldin and its implementation of the Hannibal Directive – a controversial command designed to deal with captures of soldiers by unleashing massive fire on persons, vehicles and buildings in the vicinity of the attack, despite the risk to civilians and the captured soldier.

The report recounts events by connecting various forms of information including: testimonies from victims and witnesses including medics, journalists, and other human rights defenders in Rafah; reports by human rights and other organizations; news and media feeds; public statements and other information from Israeli and Palestinian official sources; and videos and photographs collected on the ground and from the media. The events are presented in the time and space in which they took

²⁵ All times mentioned in the report are given according to the local time in the Gaza Strip during the period of the conflict (GMT+2).

²⁶ According to the UN Protection Cluster, "100 fatalities were recorded in Rafah on 1 August 2014, including 75 civilians (24 children and 18 women)", as cited by the Report of the Independent Commission of Inquiry on the 2014 Gaza Conflict, 24 June 2015, <http://www.ohchr.org/EN/HRBodies/HRC/ColGazaConflict/Pages/ReportColGaza.aspx#report> (last accessed 12 July 2015). Amnesty International has recorded another 40 civilians killed on 2 August and a further 20 civilians killed on 3 August. These figures indicate that at least 135 civilians were killed between 1 and 3 August. The Joint Documentation Unit of Palestinian human rights NGOs in Gaza calculated that a total of 202 civilians were killed during the same period, including some who died later of injuries sustained during those days; the Unit breaks the total down into 108 civilians (38 children, 26 women and 44 men) killed on 1 August, 55 civilians (25 children, nine women and 21 men) killed on 2 August and 39 civilians (10 children, eight women and 21 men) killed on 3 August.

place.

The main narrative of the report includes links to detailed case studies that describe individual incidents in which civilians were killed or injured and include testimonies collected by Amnesty International fieldworkers during the conflict or shortly afterwards, that is in August or September 2014 (one case study, that of the Abu Suleiman family, includes extracts from testimonies provided to the Al Mezan Center for Human Rights during the conflict). The case studies also include analysis of how the actions of the Israeli military in these incidents violated international humanitarian law (the laws of war). The report presents relevant provisions of international law and analyses the adequacy or otherwise of the Israeli investigations carried out to date into the events of 1-4 August 2014. In addition, the report includes a detailed methodology section and a background section that sets out the context of the events in the Rafah, namely the overall conflict of July/August 2014 and patterns of violations on both sides, as well as a brief history of the Hannibal Directive. Finally, on the basis of the information and analysis presented in the report as a whole, the report sets out conclusions on the extent to which the attacks of 1-4 August 2014 violated international humanitarian law and might amount to war crimes and a crime against humanity, as well as proposing recommendations for how justice can be achieved for victims and how such violations can be avoided in the future.

FROM CEASEFIRE TO CARNAGE

CEASEFIRE

On the night between 31 July and 1 August 2014 Israel and Hamas agreed to a 72-hour humanitarian ceasefire, negotiated by the UN and the USA. The official announcement came at 1.18am on 1 August and read: "This humanitarian ceasefire will commence at 8am local time on Friday, August 1, 2014. It will last for a period of 72 hours unless extended. During this time, the forces on the ground will remain in place."²⁷ The ceasefire was supposed to lead to negotiations that would end the conflict.²⁸ Following the announcement the Israeli officials stated that even during a ceasefire it would continue to search for and demolish tunnels within its lines.²⁹ Hamas agreed to cease its cross-border rocket fire but said it did not agree to the Israeli army continuing to take actions against tunnels.³⁰

²⁷ UN, "Joint Statement by the Secretary-General and US Secretary of State John Kerry on Humanitarian Ceasefire Announcement", 31 July 2014, <http://www.un.org/sg/statements/index.asp?nid=7899> (last accessed 12 July 2015).

²⁸ See, for example, Sudarsan Raghavan, William Booth and Griff Witte, "How a 72-hour truce in Gaza fell apart in less than 2 hours", *Washington Post*, 1 August 2014, https://www.washingtonpost.com/world/israel-hamas-agree-to-72-hour-humanitarian-cease-fire/2014/08/01/059f1ff8-194e-11e4-9e3b-7f2f110c6265_story.html (last accessed 12 July 2015).

²⁹ See, for example, BBC, "Israel 'to destroy' Hamas Gaza tunnels – Netanyahu", 31 July 2014, <http://www.bbc.co.uk/news/world-middle-east-28582853> (last accessed 12 July 2015).

³⁰ See, for example, Al Jazeera, "Israeli military announces end to Gaza truce", 1 August 2014, <http://www.aljazeera.com/news/middleeast/2014/08/ceasefire-gaza-strip-20148145731196790.html> (last accessed 12 July 2015).

End Box: Ceasefire

Following the announcement of the ceasefire, Colonel Ofer Winter, the commander of the Israeli army's Givati Brigade (an infantry brigade in charge of the military operation in the area), ordered his troops to find and destroy a tunnel – at the time, the last known tunnel that had not been discovered and destroyed by the Israeli army – south-east of Rafah, about 2km north-west of the border with Israel.³¹ It was in an agricultural area with scattered homes, small plantations, fields and greenhouses. The military had previously occupied and searched this area but eventually retreated without finding the tunnel.³² On the night of 31 July the area was beyond the Israeli army lines established within Gaza.

PUSHING THE LIMIT

According to the report of the Givati Brigade inquiry, commissioned by the Israel army to draw lessons from the military operation in Rafah, parts of which were made public,³³ Colonel Winter ordered his forces to surround and isolate the suspected tunnel area until 8am when the ceasefire was to come into effect. According to Colonel Winter, the intention was to create a line further into the Gaza Strip within which the Israeli army could continue searching for tunnels. Colonel Winter described this military manoeuvre to the Givati Brigade inquiry as “confusing” since it led to a situation whereby a tunnel harbouring Palestinian fighters existed within the area surrounded by the Israeli army during the ceasefire.

In a testimony given to Breaking the Silence, an Israeli non-governmental organization, a junior infantry field officer who took part in the incursion described his experience:

“The incursion occurred the night before the ceasefire. The entrance happened at midnight, and everyone knew that at 8am the next morning it would be over. We entered the area in order to destroy the entire tunneling infrastructure that still remains there. If you think about it, that really means every house and agricultural structure in the area. There was pressure to go in and finish the job very quickly. Just to purposelessly destroy stuff, to finish the job.”³⁴

ATTACKING THE FRONTIER

According to this officer his unit destroyed about 12 structures, mostly one-storey houses and agricultural structures.³⁵ An engineer corps soldier who took part in the incursion told Breaking the

³¹ Interview with Colonel Ofer Winter by Yossi Yehoshua in *Yedioth Ahronoth*, 15 August 2014 (paper-only edition).

³² Amir Bohbot, “Interview with Lieutenant Ethan: I declared ‘Hannibal’ and ran into the tunnel” (in Hebrew), Walla, 10 August 2014, <http://news.walla.co.il/item/2773902> (last accessed 12 July 2015).

³³ Israeli army Radio (Galei Tzahal), “Exclusive: New Details about the Rafah Battle” (in Hebrew), 14 April 2015, <http://glz.co.il/1138-61304-he/Galatz.aspx> (last accessed 12 July 2015).

³⁴ Breaking the Silence, *This is How We Fought in Gaza: Soldiers' testimonies and photographs from Operation “Protective Edge” (2014)*, Tel Aviv, 2015, <http://www.breakingthesilence.org.il/pdf/ProtectiveEdge.pdf> (last accessed 12 July 2015) (Breaking the Silence, *This is How We Fought in Gaza*), testimony 42, pp. 108-109.

³⁵ Comparing satellite images from 30 July and 1 August, Forensic Architecture has confirmed the destruction of

Silence that his orders were “to make a big boom before the ceasefire”, without being given any specific targets.³⁶

At 7.30am the ‘Izz al-Din al-Qassam Brigades (al-Qassam Brigades), Hamas’ military wing, tweeted about “battles in east Rafah”. At 7.34am they tweeted that “at 7am a group [of Hamas fighters] clashed with [Israeli] forces east of Rafah and caused many injuries and death to them [Israeli soldiers].”³⁷ Hamas later claimed that the capturing of Lieutenant Goldin took place at this time. Medical staff in the Abu Youssef al-Najjar hospital said casualties started arriving at the hospital around 8am.

At 7.33am Israeli fighter jets bombed the house of Suleiman Zayed Suleiman Abu Omran in Khirbet al-‘Adas, less than 200m north-east of the Abu Youssef al-Najjar roundabout, killing six civilians including one child. Suleiman Zayed Suleiman Abu Omran told Amnesty International:

“We were expecting 1 August to be a day of ceasefire but it turned out to be a day of war. F-16 airplanes from the occupiers [the Israeli army] bombed our house, killing six people.”³⁸

According to Amnesty International’s research, there was no military target in the house.

Meanwhile, believing the announcement of a ceasefire on the morning of 1 August signified a lull in fighting, displaced Palestinian families started returning to their homes. This was in line with the ceasefire terms, which stated: “During this period, civilians in Gaza will receive urgently needed humanitarian relief, and the opportunity to carry out vital functions, including burying the dead, taking care of the injured and restocking food supplies.”³⁹

HANNIBAL UNLEASHED

At around 9am on 1 August 2014, a group of three Israeli soldiers patrolling an area east of Rafah stumbled upon a group of Palestinian fighters. A fire fight ensued. Two Israeli soldiers and one Palestinian fighter died. An Israeli officer, Lieutenant Hadar Goldin, was taken into a tunnel. According to reports, at 9.36am, Colonel Ofer Winter, the commander in charge, declared the

structures in the area, though some of it could have occurred between the capture and 11.39am on 1 August 2014 when the satellite passed over.

³⁶ Breaking the Silence, “We want to make a big boom before the ceasefire”, <http://www.breakingthesilence.org.il/testimonies/database/603892> (last accessed 12 July 2015).

³⁷ Max Blumenthal and Allison Deger, “Who broke the ceasefire? Obama blames Hamas against the evidence”, Mondoweiss, 2 August 2014, <http://mondoweiss.net/2014/08/ceasefire-against-evidence#sthash.uvgxlcsq.dpuf> (last accessed 12 July 2015).

³⁸ Interview by Amnesty International fieldworker with Suleiman Zayed Suleiman Abu Omran, 28 September 2014.

³⁹ UN, “Joint Statement by the Secretary-General and US Secretary of State John Kerry on Humanitarian Ceasefire Announcement”, 31 July 2014, <http://www.un.org/sg/statements/index.asp?nid=7899> (last accessed 12 July 2015).

implementation of the Hannibal Directive over the radio.

THE FIRE FIGHT

Around that time a group of six Israeli soldiers from the reconnaissance unit of the Givati Brigade was searching for a tunnel in an area of plantations and greenhouses. An officer from the Givati Brigade explained that the area was considered “dirty” (an area that has not been searched nor cleared of enemy forces).⁴⁰ Colonel Winter told the Givati Brigade inquiry the area was “unoccupied and unsecured”.⁴¹ The al-Qassam Brigades described the situation as follows:

“Zionist enemy forces used the talks about a humanitarian ceasefire to advance troops more than 2km inside the Gaza Strip to the east of Rafah. Our assessment is that one of our deployed ambushes clashed with the advancing troops. We informed the mediators who participated in arranging the humanitarian ceasefire of our agreement to cease fire against Zionist cities and settlements; and that we cannot operationally cease fire against troops inside the Gaza Strip that conduct operations and move continuously. These enemy forces could easily come in contact with our deployed ambushes, which will lead to a clash.”⁴²

According to the Israeli army, at about 9am Major Banya Sarel, the reconnaissance force commander, radioed that he was about to arrest a “suspicious person” he had spotted some 150 metres away on top of a narrow two-storey cinder block structure whose top floor had openings in all directions.⁴³ The soldiers divided into two groups of three. Major Sarel, his radioman Staff Sergeant Lial Gidoni, and Lieutenant Goldin, another reconnaissance officer, approached the structure, with the other group of three soldiers outflanking the building from around a large greenhouse.⁴⁴ It was a tactical error to have approached the structure with such a small force, Colonel Winter later admitted to the Givati Brigade inquiry.⁴⁵ While it was routine, at least in Operation Protective Edge, for

⁴⁰ Yoav Zitun, “Givati commanders who fought in Rafah: Clear conscience” (in Hebrew), Ynet, 24 September 2014, <http://www.ynet.co.il/articles/0,7340,L-4568410,00.html> (last accessed 12 July 2015).

⁴¹ Uri Misgav, “Hannibal comes out of the closet: ‘better a body than a captured soldier’” (in Hebrew), *Haaretz*, 29 September 2014, <http://www.haaretz.co.il/blogs/misgav/.premium-1.2445759>; Israeli army Radio (Galei Tzahal), “Exclusive: New Details about the Rafah Battle” (in Hebrew), 14 April 2015, <http://glz.co.il/1138-61304-he/Galatz.aspx> (both last accessed 12 July 2015).

⁴² Reuters, “ Hamas Denies Holding Soldier — Claims Ambush Came Before Gaza Truce Took Effect”, 2 August 2014, in *Forward*, <http://forward.com/news/breaking-news/203364/hamas-denies-holding-soldier-claims-ambush-came/> (last accessed 12 July 2015).

⁴³ Ilana Dayan, “From deep under” (in Hebrew), Uvda (a documentary series of Mako.co.il), 19 April 2015, <http://www.mako.co.il/mako-vod-keshet/uvda#/mako-vod-keshet/uvda-2015/VOD-eaea8aa6a91dc41006.htm?sCh=440c3cc15d499410&pId=957463908> (last accessed 12 July 2015) (“From deep under”, Uvda).

⁴⁴ “From deep under”, Uvda.

⁴⁵ Yohai Ofer, “Army assessed that Goldin alive and taken to hospital” (in Hebrew), NRG, 14 April 2014, <http://www.nrg.co.il/online/1/ART2/688/909.html>; Gili Cohen, “Givati inquiry into the battle in Rafah: Fire was disproportionate, but soldiers were not properly secured in the area” (in Hebrew), *Haaretz*, 14 April 2014, <http://www.haaretz.co.il/news/politics/1.2613390> (both last accessed 12 July 2015).

soldiers to fire missiles or tank shells at buildings before approaching them, it was not done because of the ceasefire. The outflanking group members recalled hearing Major Sarel calling for help, immediately followed by a blast and two short sequences of fire. Major Sarel, Staff Sergeant Lial Gidoni and Lieutenant Goldin then stopped responding on the radio.⁴⁶

The Givati Brigade inquiry timed the beginning of the firefight at 9.06am. From traces found on site, presumably gun cartridges and footprints, it concluded that the Hamas unit was comprised of five or six members. Lieutenant Goldin, the inquiry concluded, was taken into the tunnel less than one minute after the fire fight began.⁴⁷ When the soldiers from the outflanking unit and others arrived at the scene they found three bodies on the ground and initially believed them to be the bodies of the three Israeli army soldiers. By 9.16am the soldiers realized that one of the bodies was that of a Hamas fighter, and that Lieutenant Goldin was missing. They also discovered a tunnel entrance at the ground level of the structure.⁴⁸ Initial Israeli military reports wrongly stated that the attack involved a suicide bomber. The Givati Brigade inquiry later found that the Israeli soldiers were likely taken by surprise and unable to return much fire before they were shot, though they did kill one Hamas fighter.

Because no one saw Lieutenant Goldin dragged into the tunnel, all commanders in the area were ordered to count their soldiers. According to the Israeli army, at 9.36am, after confirming that Lieutenant Goldin was indeed missing, Colonel Winter announced the implementation of the Hannibal Directive over the radio, thus unleashing the operation directive that would determine the events of the days that followed.⁴⁹ At 9.46am, according to the Israeli army, the bombardment of Rafah began.

An infantry officer described to Breaking the Silence the events that ensued after the Hannibal Directive was announced on the radio:

“The minute ‘Hannibal Directive’ is declared on the radio, there are consequences. There’s a fire procedure called the ‘Hannibal fire procedure’ – you fire at every suspicious place that merges with a central route. You don’t spare any means. A thousand shells were fired that Friday morning, at all the central intersections. The entire Tancher [route, the way the Israeli army refers to Salah al-Din Street, the main road in Gaza] was bombed. After the area was hit by 1,000 shells that Friday morning, I saw Tancher in ruins. Everything totally wrecked.”⁵⁰

⁴⁶ Amir Bohbot, “Interview with Lieutenant Ethan: I declared ‘Hannibal’ and ran into the tunnel”.

⁴⁷ Yohai Ofer, “Army assessed that Goldin alive and taken to hospital”; Gili Cohen, “Givati inquiry into the battle in Rafah: Fire was disproportionate, but soldiers were not properly secured in the area”.

⁴⁸ Yoav Zitun, “Givati commanders who fought in Rafah: Clear conscience” (in Hebrew), 24 September 2014, Ynet, <http://www.ynet.co.il/articles/0,7340,L-4568410,00.html> (last accessed 12 July 2015).

⁴⁹ AP, “Israeli fire on Gaza town raises war crimes claim”, 31 August 2014, in *Daily Mail*, <http://www.dailymail.co.uk/wires/ap/article-2739001/Israeli-fire-Gaza-town-raises-war-crimes-claim.html> (last accessed 12 July 2015).

⁵⁰ Breaking the Silence, *This is How We Fought in Gaza*, testimony 60, p. 145.

He reported that the initial burst of fire lasted three hours. An artillery soldier said his battery was “firing at a maximum fire rate” right into inhabited areas⁵¹. The Givati Brigade inquiry confirmed that more than 2,000 bombs, missiles and shells were fired during the entire day, including 1,000 in the three hours following the capture.⁵²

The initial bombardment had two purposes, according to the Israeli army:

1. **Roadways and intersections:** To stop the movement of all “suspicious” persons and vehicles and isolate the area until the arrival of ground forces.
2. Known and suspected **tunnel shafts:** This meant bombing residential buildings and agricultural installations suspected of harbouring tunnel exits or entrances.

RAINING FIRE

As the strikes began, the routes in eastern Rafah were full of disoriented civilians moving in all directions. Believing a ceasefire had begun, they had returned – or were returning – to their homes. Many decided to turn around, trying to escape the intense bombing. Palestinian witnesses described jets, drones, helicopters and artillery raining fire at pedestrians and vehicles at the intersections, indiscriminately hitting cars, ambulances, motorbikes and pedestrians. “You see the hysteria of the children, destruction, and mushroom clouds, and you try to get as far away from them as you can,” said Wa’el al-Namla, a father of two.⁵³

RETURNING TO DESTRUCTION

Saleh Abu Mohsen, a local resident, described the scene to Amnesty International: “People were running away from their homes in terror. It was a scene reminiscent of 1948 [the 1948 Palestinian exodus, also known as the Nakba], which we had only seen on TV. People were barefoot, women were running with their heads uncovered, it was a very difficult scene.”⁵⁴ Civilians attempting to flee the inferno were hit by missiles and artillery, which also struck ambulances and other vehicles evacuating the wounded.

Saleh Abu Mohsen recalled rockets falling over his neighbourhood about 20 minutes after returning to his home, roughly at 9.30am: “I would not be exaggerating if I told you that around 50-60 shells were falling every minute.”⁵⁵ He decided to leave the house with his daughters after it was hit and the front door blew off.

Inam Ouda Ayed bin Hammad recalled the shelling and bombing that took place next to her house in the al-Tannur neighbourhood: “The minute I left the house, an Apache [a US-manufactured

⁵¹ Breaking the Silence, *This is How We Fought in Gaza*, testimony 93, pp. 202-203.

⁵² Gili Cohen, “Givati inquiry into the battle in Rafah: Fire was disproportionate, but soldiers were not properly secured in the area”.

⁵³ Elior Levy, “One family, three dead, three maimed: ‘Black Friday’ in Gaza”, Ynet, 24 January 2015, <http://www.ynetnews.com/articles/0,7340,L-4618203,00.html> (last accessed 12 July 2015).

⁵⁴ Interview by Amnesty International fieldworker with Saleh Abu Mohsen, 9 September 2014.

⁵⁵ Interview by Amnesty International fieldworker with Saleh Abu Mohsen, 9 September 2014.

Israeli air force helicopter] started shooting at us.”⁵⁶ She escaped the open street and ran to her brother’s home banging on his metal door until it opened. From inside the house she heard artillery shells and missiles falling for the next hour and a half.

Abdel-Rahim Lafi described to Amnesty International the shelling of the area around his house. It began around 9am, he recalled, more than half an hour before the time that the Givati Brigade inquiry claims the strikes started:

“My son Yehya and I left the house. We reached the Abu Youssef al-Najjar roundabout when the first missile fell about 13 metres ahead of us... I fell and was injured in my right leg. When I looked next to me I found my son. He looked up at me for seconds and died immediately after. When the first missile fell, two women to the right on the road towards Abu Youssef al-Najjar roundabout died. About a moment later, the second rocket fell while I sat with my dead son, and nearby a young man in a blue shirt flew in the air when a rocket hit him. Another rocket fell about eight metres away from me.”⁵⁷

Engineer Ala Sheikh al-Eid, who lived next to the Mashrou’ Amer roundabout, said: “Anyone walking on the Abu Youssef al-Najjar Street was hit. Even a fly would have been hit. They [the people of Rafah] called the street ‘death street’.”⁵⁸

Around the same time, members of the al-Namla family left their home in the al-Tannur neighbourhood when they heard the bombing. Israeli army shelling of the area killed Ala Jamal al-Namla and her children Youssef and Nagham just outside their home.

During the initial phase of the attack the Israeli army appeared to fire at moving vehicles without distinction, including at ambulances heading to the Abu Youssef al-Najjar hospital. This resulted in ambulances being unable to reach the victims and to evacuate the wounded to the hospital.⁵⁹

TUNNEL HUNT

At 9.54am Lieutenant Eitan Fund, an officer in the reconnaissance and a close friend of Lieutenant Goldin, received Colonel Winter’s permission to enter the tunnel.

TUNNEL CHASE

Colonel Winter reportedly asked him “to throw in a grenade” before going in, regardless of the possibility that it might harm Lieutenant Goldin.⁶⁰ Lieutenant Fund entered, with a hand pistol only. Three soldiers followed him, carrying torches and shooting continuously as they moved through the

⁵⁶ Interview by Amnesty International fieldworker with Inam Ouda Ayed bin Hammad, 4 September 2014.

⁵⁷ Interview by Amnesty International fieldworker with Abdel-Rahim Lafi, 24 September 2014.

⁵⁸ Interview by Amnesty International fieldworker with Ala Sheikh al-Eid, 4 September 2014.

⁵⁹ Interview by Amnesty International fieldworker with Mohammed Khalil Mohammed Abu Duba (son of the deceased Khalil Abu Duba and brother of the deceased Munir Abu Duba), 28 September 2014.

⁶⁰ Amos Harel and Gili Cohen, “What happened in Gaza’s Rafah on ‘Black Friday?’”, *Haaretz*, 8 August 2014, <http://www.haaretz.com/news/diplomacy-defense/.premium-1.609533> (last accessed 12 July 2015).

tunnel. Lieutenant Fund lost his hearing. The tunnel, he said, was 1.9 metres high, made of concrete with electrical wires running along the walls. The soldiers noticed a trail of blood after 200 metres. They continued to fire shots. In a media interview Lieutenant Fund said: "I instructed the soldier next to me to open fire if he identified any figures – even if it meant killing or wounding Hadar [Goldin]. Painful as it is, it is preferable that way."⁶¹ This confirms that Lieutenant Fund, like other soldiers, understood that Lieutenant Goldin's death was preferable to letting Hamas capture him alive, according to their understanding of the Hannibal Directive.

After 300 or 400 metres, according to Lieutenant Fund, the tunnel split. Here they found some of Lieutenant Goldin's clothing and his personal equipment. The right turn was closed off with a blanket hiding a pile of military bags with battle equipment, guns, explosives, food and water. Lieutenant Fund and another soldier ran for a couple of minutes, following the trail of blood. Their radio did not work and they feared being taken prisoners themselves. They turned around and ran back. Shortly afterwards another group of soldiers was sent into the tunnel to call them out.

The soldiers left the tunnel at about 10.30am. Once above ground, Lieutenant Fund and the soldiers joined the rest of the troops as they prepared for an incursion north towards the area they believed the tunnel led to. According to the Givati Brigade inquiry the ground incursion began at 10.40am. At around 12pm, Lieutenant Fund received orders to return to the tunnel entrance and lead a group of specialized soldiers from the "Unit for the identification of missing people" and commandos. They were to retrieve the rest of Lieutenant Goldin's remains so as to assess his condition. They found several items belonging to Lieutenant Goldin including personal items and blood-stained pieces from his uniform. Based on these items, the Israeli army's forensic unit assessed that Lieutenant Goldin could not have survived these wounds. The following night the chief military rabbi signed Lieutenant Goldin's death certificate and cleared the way for a funeral to take place on Sunday 3 August.⁶² By that time most of the Israeli army units had retreated from Rafah and the rest of the Gaza strip.

Another Givati Brigade officer who participated in the battle explained the logic of the operation: "In such an event you prefer a killed soldier rather than a soldier in enemy hands, like [Gilad] Shalit. I told myself 'even if I bring back a corpse I have brought back the missing person'. You do everything possible not to put an entire state in a Gilad Shalit whirlwind."⁶³

ATTACKING TUNNELS

Amnesty International and Forensic Architecture cross-referenced various sources to reconstruct what the Israeli army has stated were attacks on the Palestinian armed groups' tunnel system. Based on the analysis conducted by Amnesty International and Forensic Architecture, it appears that some of the locations targeted by the Israeli military during the enactment of the Hannibal Directive were believed to be the location of Lieutenant Goldin.

⁶¹ Interview with Lieutenant Fund in "From deep under", Uvda.

⁶² Walla, "War in the South Updates: 25th Day" (in Hebrew), 2 August 2014, <http://news.walla.co.il/item/2771294> (last accessed 12 July 2015).

⁶³ Yoav Zitun, "Givati commanders who fought in Rafah: Clear conscience".

The analysis is based upon the following sources:

1. A high-resolution satellite photograph taken at 11.40am on 14 August shows traces of deep mechanical excavations – where the Israeli army dug for tunnels – in various places north and south of Salah al-Din Street.
2. Ground-level photographs of these excavations and exposed tunnels.
3. Photographs of smoke plumes indicating heavy aerial bombing.
3. Lieutenant Eitan Fund's description of his movements through the tunnel.
4. Material released by the Israeli army and published on Israeli media.

TIMING AND LOCATING THE STRIKES

The earliest photographs of the strikes on 1 August that Amnesty International and Forensic Architecture have obtained were taken at 10.22am, and show the dust raised by artillery fire at the Abu Youssef al-Najjar roundabout, while at about 10.45am they feature the first bombs dropped from the air. Journalists, photographers, human rights activists and citizens with cameras took photographs of the carnage on the streets. Several photographers were taking pictures from the Smart Media Center on the eighth floor of the Masri Towers, a place from which the entire city is visible.

The pictures from the rooftops are characteristic photojournalistic representations of a city under fire. The photographic frame is horizontally divided between the cityscape and the sky, linked by smoke plumes generated from artillery and air force bombing. Using these photographs, Forensic Architecture identified, located and timed each of the large smoke plumes generated by aerial bombs.

The photographs confirm fire burning and heavy aerial bombardment on the area suspected of harbouring the tunnel entrances, from 10.45am. This timeline aligns with the Israeli air force evacuating its soldiers from the tunnel at 10.30am, clearing the way for the tunnels to be bombed by the air force.

Photographs of smoke plumes taken from 10.45am onwards allowed Forensic Architecture to determine the locations of heavy bombing. The area most heavily bombed is where traces of excavations can be seen on the ground. These excavations were undertaken from the afternoon of 1 August until 3 August. This demonstrates that the Israeli army bombed the very places where it later excavated for the tunnel network.

The size of the plumes and the craters indicates that the aerial strikes included the use of one-ton bombs, likely to be GBU-31 bombs, according to a military analyst commissioned by Amnesty International. The analyst confirmed that if half-ton or one-ton bombs were to land in close proximity to a tunnel entrance it would have created a blast of extreme heat and a shock wave strong enough for the tunnel to collapse, killing those inside it.

Eli Gino, Colonel Winter's deputy, explained: "We knew that bombing the tunnel mouths by plane would reduce the chances of finding Lieutenant Goldin alive... but this was the best way to deal with

the situation.”⁶⁴ “The bottom-line”, another Givati Brigade commander said weeks after the end of the war, “is that Lieutenant Goldin is not with them [Palestinian fighters] and the Hamas unit is probably exterminated.”⁶⁵

MAPPING THE TUNNEL

According to the Givati Brigade inquiry the entire incursion into the tunnel lasted slightly over 30 minutes. By Forensic Architecture’s calculations, Lieutenant Fund and his team covered about 800 metres of tunnel. Lieutenant Fund’s testimony, together with traces of excavation seen in the satellite photograph of 14 August, allowed Forensic Architecture to reconstruct the path of the tunnel as the Israeli army thought it to be. The tunnel has since been destroyed but, as this report will later demonstrate, the Israeli air force bombed the tunnel in the very places it thought its captured soldier might have been located.

THE BOMBING OF AL-TANNUR

At 10.52am two one-ton bombs were dropped on a residential area in the al-Tannur neighbourhood of eastern Rafah. Several buildings were completely destroyed and many others at least partially damaged. The buildings were largely empty but at least 22 people died on the streets while trying to flee the area.

THE BOMBING

Many Palestinians died during the manhunt in which the Israeli military directed intense and indiscriminate firepower at broadly defined populated residential neighbourhoods in eastern Rafah. Not all attacks were conducted at calculated locations, but at least two attacks using large aerial bombs appear to have been directed at locations where the Israeli army suspected Lieutenant Goldin to be.

The single most deadly strike of this day occurred at 10.53am in the neighbourhood of al-Tannur. A video clip shot from a rooftop in Rafah shows two large bombs striking a dense residential area. Towards the end of the clip, the videographer zooms out briefly and captures two columns casting a clear shadow on the roof terrace. Using these columns as sundials Forensic Architecture determined the strike took place at 10.53am, and corroborated this time by synching the video clip with other photographs and videos.

By analysing the same smoke plume as seen from different perspectives, Forensic Architecture located the strike site near the intersection of Oruba Street and al-Balbisi Street, next to the Abu Shawareb building, in eastern Rafah. The site is a few hundred metres west of the western-most area captured by Israeli army ground forces in their 1-4 August incursion. Two frames within the video capture the actual bombs in mid-fall.

Having previously established the distance of the videographer from the bombed site, Forensic Architecture measured the bombs and deemed them to be consistent with MK-84/GBU-31 of the JDAM kind, the largest and most destructive guided bombs of their kind, each packed with one ton of explosives, a conclusion corroborated by the analysis of military experts. The two bombs fell on a

⁶⁴ Yoav Zitun, “Givati commanders who fought in Rafah: Clear conscience”.

⁶⁵ Yoav Zitun, “Givati Commanders who fought in Rafah: Clear conscience”.

small single storey structure – the house of Abdel-Raouf Mohammed Fahajan, who was not at the premises at the time. That structure and the Abu Shawareb building nearby collapsed; both appear to have been uninhabited at the time of the attack. However, at least 18 people who had fled their homes and were on Oruba Street and al-Balbisi Street were killed in the attack, and many others were injured. Scores of people were on the streets attempting to flee the area in close vicinity to the site of the attack.

Shirin Jamal Arafat, 25, who had fled her home amid tank shelling of the area, was carrying her two-month-old son, Mohammed Anas Mohammed Arafat, while attempting to flee the area through al-Balbisi Street. She recounted the attack that killed her son:

“We stayed until about 10am here in the house. Other people fleeing also came to our house. When they fled, we went with them... I was injured and my son was in my hands. He died in my hands... My son got hit in the head and was injured in the face and his face split open. I lost consciousness. Then they moved us to the Abu Youssef al-Najjar hospital. When they were moving me, they thought I was dead. My face was disfigured.”⁶⁶

Shirin Arafat recounted that her heart stopped while she was at the Abu Youssef al-Najjar hospital. “When the second ambulance came my heart started again and they took me to the Nasser [hospital in Khan Yunis].” She was later transferred to the Gaza European hospital and then to the al-Maqased hospital in Jerusalem for treatment for the shrapnel injuries to her head.

RECOUNTING THE ATTACK

Moments before the bombing, Inam bin Hammad, decided to leave her brother’s house accompanied by several family members. She describes the events that followed:

“Around 60 people from the al-Tannur area arrived on the street coming out of Abu Shawareb. Suddenly there was smoke, dust, rubble and shrapnel flying above us. A column from a wall fell, protecting me and my daughter Remas from the shrapnel. I lost consciousness for a few minutes and when I recovered felt a pain in my leg. I got up from under the rubble, took my daughter and stepped out... When I looked back at the Abu Shawareb building as I was getting into an ambulance, I saw that it had been shelled.”⁶⁷

Inam bin Hammad lost 13 relatives including her son in this single most deadly strike of the day.

Abdel-Munim Abdel-Al, a medic, received calls from the al-Balbisi supermarket area after the bombing of the Abu Shawareb building. He recalled:

“We couldn’t reach them [the injured and people in need] as there was so much bombing. People were imploring us. We asked the Red Crescent for a permit into the eastern area and the al-Balbisi intersection in particular. After over an hour, we got there with difficulty and found severed body parts belonging to women, children, and elderly people. We carried

⁶⁶ Interview by Amnesty International fieldworker with Shirin Jamal Arafat, 27 September 2014.

⁶⁷ Interview by Amnesty International fieldworker with Inam Ouda Ayed bin Hammad, 4 September 2014.

*what we could.*⁶⁸

Hammam Mahmoud Mohammed Abu Mesameh, an ambulance driver and a medic, described the same evacuation effort:

*“People would call and direct us to where help was needed. We evacuated families from inside the al-Tannur district and at one time we carried as many as 25 women and children in the ambulance – either injured or being evacuated. We would drop them off near the Abu Youssef al-Najjar hospital where they would continue on foot, while we’d go and collect more people. The al-Balbisi area had many casualties – we carried them away while still under artillery fire. We only took three dead away. There were many more but we decided it was more important to move the injured and those escaping the shelling, and leave the dead to be collected later.”*⁶⁹

Hana Salem Suleiman al-Mahmoum was leaving her house on al-Balbisi Street when the strike knocked her unconscious. She said:

*“A first shell was shot at me, my sisters Islam and Esra, my brother Mohammed and the women with us. I fainted and fell to the ground with stones and concrete falling on me. My back and both my legs were injured. When I regained consciousness, there was dust everywhere. All I could manage was to carry my brother Mohammed and started walking away. I couldn’t see anyone from the people who were with me because of the dust and smoke. I kept stumbling on women as I walked; I was sure many of them were dead.”*⁷⁰

She described the difficulty of extracting people from the site, making the evacuation impossible in some cases. Because there were no ambulances available, she was left to go back to the strike site to find and try to save members of her family. She recounted:

“We called an ambulance which bandaged my brother and took him away with my cousin Fathiya who had also broken her arm. I asked the medics to go collect my mother and other relatives from the area I had just come from, but they refused to go, saying it was too dangerous. I walked about 2km or 3km down al-Balbisi Street to Deir Yassin Road when I ran into young men who called the fire department when they saw my injury. They took me to the Kuwaiti hospital – the [Abu Youssef] al-Najjar hospital was closer but it was under threat from shelling.”

The al-Tannur bombing was the single most deadly incident between 1 and 4 August. The casualties all occurred in the streets, with families fleeing artillery, helicopter and drone fire. The destruction radius of the bomb was 100 metres, with an approximate impact area (where casualties could be sustained) of 17,500m² according to Forensic Architecture.

⁶⁸ Interview by Amnesty International fieldworker with Abdel-Munim Abdel-Al, 7 September 2014,

⁶⁹ Interview by Amnesty International fieldworker with Hammam Mahmoud Mohammed Abu Mesameh, 7 September 2014.

⁷⁰ Interview by Amnesty International fieldworker with Hana Salem Suleiman al-Mahmoum, 4 September 2014.

AL-TANNUR: A MANHUNT?

Several reasons lead Forensic Architecture to believe that the Israeli army suspected the area of harbouring a tunnel mouth and thus bombed it to target the captured soldier and his captors:

1. The strike targeted a small single-storey structure with a one-ton bomb (one of the largest bombs in the Israeli air force arsenal).
2. According to the military analyst commissioned by Amnesty International to examine photographs of the site, the ammunition is a one-ton bomb with a delay fuse. This ammunition allows the bomb to blast underground – pointing to an air force trying to target an underground structure.
3. The site was struck at the same time as other tunnel entrances in the east of Rafah were struck, likely pointing to the same air force mission.
4. The site is located on a line connecting sites that were subsequently excavated by the Israeli army searching for tunnels (visible on the 14 August satellite image).

GROUND MANOEUVRE

According to the Givati Brigade inquiry, at 10.40am, 10 minutes after the soldiers came out of the tunnel, the ground manoeuvre began.⁷¹ It aimed to follow the assumed path of the tunnel network overground and intercept the northern exits of the tunnels about 2km to the north.⁷² The force reportedly included a tank battalion (about 36 tanks), armoured D9 bulldozers, personnel carriers, and dismounted infantry. “Almost all the forces located in the centre-southern part of the Gaza strip were shifted to Rafah,” according to the Israeli army.⁷³ This area was also an agrarian area of low-density housing, fields and greenhouses just north of Salah al-Din Street. The Sa’ad Sayel training base, a Palestinian military installation, is located in this area.

REMOTE SENSING

At 11.39am on 1 August the European Pléiades image satellite passed over Rafah and took a single multi-spectral photograph of Rafah. It would return only on 14 August, 10 days after the Israeli army retreated from the strip. The satellite image provides a rare snapshot of the battle.

Forensic Architecture analysis detected the following elements on the photograph:⁷⁴

1. Israeli armoured vehicles can be seen en route to, on and north of Salah al-Din Street. These tanks are at the same location as those that shot and killed Saleh Abu Mohsen’s daughter. In total there are 37 tanks and three D9 bulldozers visible on the satellite image.

⁷¹ Yohai Ofer, “Army assessed that Goldin alive and taken to hospital”.

⁷² Interview with Colonel Ofer Winter by Yossi Yehoshua in *Yedioth Ahronoth*, 15 August 2014 (paper-only edition).

⁷³ Gili Cohen, “Givati inquiry into the battle in Rafah: Fire was disproportionate, but soldiers were not properly secured in the area”.

⁷⁴ These elements were confirmed by satellite image expert John Pines.

2. The tracks of heavy armoured vehicles can be seen leading north towards and past Salah al-Din Street.

3. Smoke plumes are seen, indicating strike that took place beforehand. Smoke plumes and fire were identified at the area suspected of harbouring the tunnels north of Salah al-Din Street and at the Mashrou' Amer junction.

4. Craters and burn marks of artillery shells and impact craters of air strikes are still emitting smoke plumes.

5. The site of Abu Shawareb building in al-Tannur at the intersection of Oruba Street and al-Balbisi Street is already destroyed.

6. The roadways next to the Mashrou' Amer and Ayn roundabouts show disturbances that are consistent with aerial attacks.

The satellite photograph of Rafah at 11.39am is consistent with witness testimonies regarding the location and level of destruction as well as the location of ground forces.

MASS DESTRUCTION

The Israeli army apparently intended to surround and isolate the Tabet Zare' neighbourhood north of Salah al-Din Street. Tank commanders were given permission to shoot at "suspicious points" – buildings, people or vehicles – without warning. What constituted a "suspicious point" was left to the discretion of the commanders, and soldiers interpreted it as any building close to the tanks or overlooking them, "almost every object or structure within the forces' eyeshot had the potential to be considered suspicious and thus targeted," states the introduction to the Breaking the Silence compilation of testimonies.⁷⁵

The D9 bulldozers moved first, uprooting trees, removing small structures and piling earth mounds to mask the movement of infantry soldiers. An officer described this movement to Breaking the Silence:

*"A crazy amount of artillery was fired... armoured D9 bulldozers plowed the entire area. After them came the tanks in two lines, continuously shooting at houses as they moved along. The infantry walked along the trail opened by the tanks."*⁷⁶

Armoured vehicles were positioned north and west of Salah al-Din Street, in the Tabet Zare' neighbourhood close to the Abu Youssef al-Najjar hospital.

There were tank tracks through the small fields and orchards surrounding homes in this semi-agrarian area. Tanks avoided the roads, fearing they might be booby-trapped. The same officer

⁷⁵ Breaking the Silence, *This is How We Fought in Gaza*, Introduction, p. 18.

⁷⁶ Breaking the Silence, *This is How We Fought in Gaza*, testimony 30, pp. 82-84.

quoted above also said: “There are also agricultural fields there, the D9 [bulldozer] rips them all up. And tin sheds. It takes down whatever’s in its way, it topples greenhouses.”⁷⁷

A tank commander described to Breaking the Silence how he used the manoeuvre through the semi-agrarian area as a training opportunity:

“I assigned one of my company commanders to document some of this [the manoeuvre] by video, so we could illustrate it in training – showing soldiers for example how a tank drives through a grove of trees or shoots in different situations. Because in training we don’t have planted grove areas we can keep running over, or a variety of ‘live’ houses to shoot at.”⁷⁸

Dolev Ohayon, a Givati Brigade soldier who participated in the ground assault, described the situation in a diary he kept throughout the war: “The air force, tanks, artillery, engineering, machine guns, all the Israeli army fire power was there.”⁷⁹

Salah al-Din Street was the deepest point the Israeli army’s ground incursion had reached into the Rafah area during the war. Dolev Ohayon’s unit dismounted the armoured vehicles and crossed Salah al-Din Street on foot to search buildings.

“We moved towards the building under a heavy covering fire, we searched and ‘purified’ the house that was in pieces like all the other houses in the neighbourhood which was all completely on fire, I never saw such a level of destruction, almost every building in this neighbourhood was hit.”⁸⁰

Dolev Ohayon and other soldiers who recounted their experience through Breaking the Silence or the media (after Israeli army’s censorship) all described the same process by which houses were captured. First, a tank would fire a shell at the building, then covered by the tank’s machine-gun fire, soldiers would approach the building. Soldiers might fire a portable anti-tank and rockets at one of the ground-level walls to produce a large hole. They would then enter the house through this hole and throw in grenades before entering a room, regardless of whether or not there were civilians inside.⁸¹

One of the officers of the Givati Brigade describes the attack as “aggressive and crushing”.⁸² He continued: “The motto guiding lots of people was, ‘let’s show them.’”⁸³ Other soldiers said they were

⁷⁷ Breaking the Silence, *This is How We Fought in Gaza*, testimony 30, pp. 82-84.

⁷⁸ Breaking the Silence, “Those guys were trigger happy, totally crazy”, <http://www.breakingthesilence.org.il/testimonies/database/103279> (last accessed 12 July 2015).

⁷⁹ Walla, “I must take the thoughts of dying out of my head” (in Hebrew), 23 April 2015, <http://news.walla.co.il/item/2847705> (last accessed 12 July 2015).

⁸⁰ Walla, “I must take the thoughts of dying out of my head”.

⁸¹ Walla, “I must take the thoughts of dying out of my head”.

⁸² Yoav Zitun, “Givati commanders who fought in Rafah: Clear conscience”.

⁸³ Breaking the Silence, *This is How We Fought in Gaza*, testimony 66, p. 156.

there “to settle accounts”⁸⁴ or to “extract a price”⁸⁵. The soldiers fired such large quantities of ammunition that Eli Gino, deputy commander of the Givati Brigade, was heard screaming over the brigade radio network (in a recording released by the Israeli army): “Stop shooting! Stop shooting! You are shooting like retards, you will kill each other, stop! I already have casualties, I already have two dead soldiers.”⁸⁶ Hardly any return fire was reported and no further Israeli army fatalities were sustained that day. The incident on the morning of 1 August was the last in which the Israeli army sustained combat fatalities inside Gaza, during the 2014 conflict. Colonel Winter later said: “I hoped they [Hamas fighters] would come face to face with us, but they chickened out. That’s not combat. There were very few places with fighting retreats. They left everything and escaped.”⁸⁷ If, as Colonel Winter maintains, there were no serious fire fights, the question arises as to whether the army’s use of massive firepower was in fact intended to “take revenge” on Rafah.

Mohammed Khalil Mohammed Abu Duba, 20, who was trapped with his family in their home in the Mashrou’ Amer area (and lost his father, Khalil Abu Duba, and brother Munir Abu Duba in an attack the following day), recounted seeing the rows of tanks in eastern Rafah on the evening and night of 1 August as they continued intensively firing into the residential neighbourhoods:

“We were at home [in the Mashrou’ Amer area] on Friday, before the sunset call to prayer [about 7.30pm]. The F-16 airplanes appeared and hit us with over 15 missiles one after the other with minutes in between. They fell on all the homes around our house... most of them civilian homes with nothing to do with anything. They were random hits...”

“At 11pm we began to hear sounds of tanks clearly as if they were next to our home. From far away, approaching. They struck the house and I no longer saw what was happening as we hid under the stairs... The tanks were right next to our demolished house, one side of the tank touching the fallen masonry of our home, and continuing to bombard. And another in our street, one behind and one in front of al-Mashrou’ Amer.

“Munir went up to the roof – without of course our father knowing – and he began to count the flags on top of the tanks. They numbered about 37 and more just in... our area. Sometimes they fly above the roof. They were just the ones we managed to count before fleeing. We counted and came straight back down. We weren’t going to stay up there. He told me and my father and we went up to the roof. And sure enough. There were so many tanks. For every street, at least four or five tanks. And each one was bombarding the homes and people – wherever there were people... The tanks were coming from everywhere, from every street as if in shifts: five would leave and another five would take their place going round and round.”⁸⁸

⁸⁴ “From deep under”, Uvda.

⁸⁵ Uri Misgav, “Hannibal comes out of the closet: ‘Better a body than a captured soldier’”.

⁸⁶ Yoav Zitun, “Givati commanders who fought in Rafah: Clear conscience”.

⁸⁷ Interview with Colonel Ofer Winter by Yossi Yehoshua in *Yedioth Ahronoth*, 15 August 2014 (paper-only edition).

⁸⁸ Interview by Amnesty International fieldworker with Mohammed Khalil Mohammed Abu Duba, 28 September

End Box: Mass destruction

FLEEING THE BOMBARDMENT

At about 11am Saleh Abu Mohsen and his three daughters left their house in eastern Rafah, seeking safety in another part of town. A few minutes later they passed a number of Israeli tanks on Salah al-Din Street. Asil Abu Mohsen, Saleh Abu Mohsen's 17-year-old daughter, was killed by what appeared to have been tank fire. The military attacked the ambulance attempting to evacuate her.

Start Box: Escaping through fire

ESCAPING THROUGH FIRE

Around the same time (11.01am), 20 minutes after the armed column started moving north, Saleh Abu Mohsen and his three daughters left their home north of Salah al-Din Street, shortly after hearing a massive explosion. They also heard the tanks coming and feared "another massacre". They reached Salah al-Din Street two minutes later, at 11.03am. "When we reached there I was surprised to find a [truck] trailer on fire," said Saleh Abu Mohsen. He continued:

"I found tanks in front of the Sa'ad Sayel barracks. The tanks fired at us... We decided with my daughters beforehand to walk in two groups separated by a distance of 10 metres in case we were targeted; that way some of us stood a chance of being saved... I took two of my daughters and my third daughter stayed with the wife of our neighbour. [When crossing the Mashrou' Amer intersection], I looked behind me and did not see my daughter."⁸⁹

Saleh Abu Mohsen said he saw four or five tanks on both sides of Salah al-Din Street, 15 metres away from where he was. Forensic Architecture identified six tanks and one D9 bulldozer at the entrance of the Sa'ad Sayel barracks and one D9 bulldozer on the satellite image taken half an hour later at 11.39am.

Past the intersection, Saleh Abu Mohsen and his two surviving daughters ran north towards Abu Youssef al-Najjar Street to find an ambulance to return and pick up his missing daughter. "When I arrived there the ambulances were too busy because so much was happening in east Rafah and no one dared go east of the hospital," he said.⁹⁰ He did eventually convince an ambulance driver to risk the journey. From the ambulance, Saleh Abu Mohsen recalls seeing "burned cars and a drone-fired missile [fall] in front of the ambulance narrowly missing us." Saleh Abu Mohsen and the ambulance driver were forced to return without finding his daughter. He finally found the body of his daughter four days later. Her body had gunfire wounds to the chest.

Mohammed Baha al-Din al-Gharib, 22, resident of Mussabeh, al-Zuhur district, lost his father, Baha al-Din Kamel al-Gharib, 58, and sister Ula, 16, when they were struck by what appears to have been

2014.

⁸⁹ Interview by Amnesty International fieldworker with Saleh Abu Mohsen, 9 September 2014.

⁹⁰ Interview by Amnesty International fieldworker with Saleh Abu Mohsen, 9 September 2014.

a drone-fired missile at approximately 10.30am on 1 August. He recounted:

“My father had just returned from the supermarket and he and my sister Ula were on their way to the hospital at 10.30am. They walked through a side road avoiding the main road [Salah al-Din Street], which was being shelled. A drone hit both of them.

“My other sister saw smoke coming from the area they were walking in and came running to tell me... My father had lost his legs and his elbow had been cut off; he had shrapnel in his back, which was also full of holes from the shrapnel. He also had shrapnel in his stomach. My sister Ula had lost her right leg and shrapnel had punctured her eye approaching her brain, and another piece of shrapnel had slit her throat. The ambulance came after a long time, they were afraid to go into certain areas because of the shelling.”⁹¹

Samira Aliyan Hamdan Qishta, 45, recalled how she and her husband escaped the area amid heavy, persistent fire:

“I was cooking breakfast at around 10am when the really heavy bombing started and shells fell everywhere... Other people were running with us, all raising white flags. No one could reach George Street, so they came through this side street while carrying their flags... When we saw everyone running, we continued to run with them at the same time as the shells continued to fall. My family and I were running and crawling and at one point I became so tired my feet just stopped moving. My husband kept pushing and dragging me till we reached my brother-in-law's house at the end of the road.”⁹²

According to Palestinian testimonies collected by the Al Mezan Center for Human Rights, a Palestinian human rights organization, at about midday tanks started crossing the Salah al-Din Street moving north.

ATTACKS ON ABU YOUSSEF AL-NAJJAR HOSPITAL

The Abu Youssef al-Najjar hospital is located in eastern Rafah and treated dozens of wounded through the earlier part of 1 August. The hospital was unable to deal with the amount of casualties it received. The Israeli army attacked the hospital building, its premises and streets in its immediate vicinity throughout the day, injuring doctors and patients and causing serious damage to the building. The hospital was eventually evacuated around 3.30pm on the afternoon of 1 August, when the attacks on the premises intensified and scores of patients rushed to evacuate the building, some while still connected to hospital equipment such as intravenous drips.

ATTACKING THE HOSPITAL

One of the scenarios that the Israeli military considered was that the captured soldier Lieutenant Hadar Goldin had been wounded in the fire fight with Hamas fighters and would be taken to the Abu Youssef al-Najjar hospital, the medical facility closest to the area of capture. Dr Ashraf Mahmoud Hamad Hijazi, head of the Surgery Department at the Abu Youssef al-Najjar hospital described what happened: “An officer from the Israeli intelligence services called a nurse at the hospital, said that

⁹¹ Interview by Amnesty International fieldworker with Mohammed Baha al-Din al-Gharib, 28 September 2014.

⁹² Interview by Amnesty International fieldworker with Samira Aliyan Hamdan Qishta, 9 September 2014.

the missing Israeli soldier was in the hospital and that we wouldn't be allowed to leave the hospital until we released the soldier. This was absurd."⁹³

Dr Ashraf Hijazi arrived at the hospital around 9am. The flood of casualties started coming in at about 10am, he said. The hospital was overflowing with casualties and their families. He could not even count the dead and wounded. He said:

*"The bombing began increasing and [bombs were] dropping continuously, and closer to the hospital. They bombed a house no further than 20 metres away from the hospital [and later] a missile fell at the door of the hospital."*⁹⁴

Dr Majed Ayesh Abu Taha, a bone specialist at the hospital, confirmed that "a missile landed next to the main door. I had gone to see some patients in the clinic down there when a missile fell at the hospital's main door. All of the clinic's window glass flew out. I moved to the reception and another missile fell behind and all the reception glass fell out."⁹⁵

The attacks around the hospital grew nearer and more frequent between 2pm and 2.30pm. Dr Ashraf Hijazi recalled: "There was the sound of the missile and a large explosion. I saw fire coming in from the window and it reached Dr Youssef's [one of the hospital staff] arm". Dr Majed Abu Taha remembered: "In the afternoon at 2.30pm I went upstairs to pray, and all the windows were blown out, the roof gone, and the door broken."

Studying photographs of the hospital taken by locals, photojournalists, and human rights defenders, Forensic Architecture noted both internal and external damage. On the satellite image taken on 14 August, Forensic Architecture detected one crater about 120 metres south-west of the hospital and three craters about the same distance north-east of the hospital.

EVACUATING THE HOSPITAL

Patients, staff and persons seeking refuge at the hospital proceeded to evacuate the building en masse in a rush when the attacks on the premises intensified and it was believed that the hospital might be subjected to attack in the afternoon of 1 August. Dr Hijazi described how "some people started leaving the hospital through a back door but it was not safe". Dr Abu Taha added that "at 3.30pm the patients fled the hospital; some had plaster casts, with drips in their chests and stomachs. I saw a young boy in a plaster cast crawling trying to flee by dragging himself along." Abdel-Rahim Lafi, who had arrived at the hospital with the body of his son Yehya and surviving members of his family, saw an unexploded missile at the front of the hospital and missile fire next to the hospital's rear exit as he tried to flee through there.⁹⁶

Iyad Ali Salama Ghaboun, whose home is located right beside the hospital, recounted the

⁹³ Interview by Amnesty International fieldworker with Dr Ashraf Hijazi, 14 August 2014.

⁹⁴ Interview by Amnesty International fieldworker with Dr Ashraf Hijazi, 14 August 2014.

⁹⁵ Interview by Amnesty International fieldworker with Dr Majed Abu Taha, 14 August 2014.

⁹⁶ Interview by Amnesty International fieldworker with Abdel-Rahim Lafi, 24 September 2014.

evacuation:

“Suddenly, there was noise in the streets. It was between 2.30pm and 3pm. My brother looked out onto the street and came back saying ‘quick the hospital is being evacuated’. I looked at the hospital and will never forget what I saw. People leaving the hospital on hospital beds holding drips, being pushed on carts also holding drips. I saw doctors in hospital clothes carrying white sheets. And people were streaming out. This was in the street. There was a doctor – Ahmed Abu Geir Abu Zakar – he was holding a white screen and making people go down the street next to ours.”⁹⁷

According to Dr Hijazi no organized evacuation took place until the evening: “It was getting dark around 6.30pm or 7pm. We agreed to leave with patients in separate ambulances. I got into an ambulance and we took a couple of patients, a paediatrician and the ambulance driver and we went to the Kuwaiti hospital.”⁹⁸ The hospital was closed soon after. At 7pm reporters claim that the entire neighbourhood around the Abu Youssef al-Najjar hospital was under artillery fire.⁹⁹

DEATH CERTIFICATE

On Saturday 2 August the military forensic medicine unit arrived at an assessment that Lieutenant Hadar Goldin was dead. The examination, they said, was based on blood stains, tissues and other bodily fluids found on Goldin’s personal gear retrieved from the tunnel. “It was concluded that even if Goldin had been taken alive, there was no possibility Hamas doctors could have kept him alive”.¹⁰⁰

At 11.25pm on 2 August an emergency rabbinical court issued a death certificate.¹⁰¹ The former chief rabbi Israel Weiss explained the necessity of quickly issuing a death certificate using the same logic as that of the Hannibal Directive. The military does this so that “the bargaining-chip value decreases”, he said.¹⁰²

On Saturday, the Israeli army’s assessment was that Lieutenant Goldin was dead.¹⁰³ “It was likely

⁹⁷ Interview by Amnesty International fieldworker with Iyad Ali Salama Ghaboun, 24 September 2014.

⁹⁸ Interview by Amnesty International fieldworker with Dr Ashraf Hijazi, 14 August 2014.

⁹⁹ *Haaretz*, “Military wing of Hamas: Prisoner officer probably dead” (in Hebrew), 2 August 2014, <http://www.haaretz.co.il/news/politics/1.2394287> (last accessed 12 July 2015).

¹⁰⁰ Ido Efrati and Anshel Pfeffer, “Between forensics, religion and politics: How Israel determines a missing soldier is dead in the absence of a body”, *Haaretz*, 3 August 2014, <http://www.haaretz.com/news/diplomacy-defense/premium-1.608676> (last accessed 12 July 2015).

¹⁰¹ Yair Ettinger, “Chief military rabbi made strong impact during Gaza war”, *Haaretz*, 8 August 2014, <http://www.haaretz.com/news/diplomacy-defense/premium-1.609543> (last accessed 12 July 2015).

¹⁰² Ido Efrati and Anshel Pfeffer, “Between forensics, religion and politics: How Israel determines a missing soldier is dead in the absence of a body”.

¹⁰³ *Haaretz*, “IDF determines 2nd Lt. Hadar Goldin, previously considered captured in Gaza, is dead”, 3 August 2014, <http://www.haaretz.com/news/diplomacy-defense/1.608525> (last accessed 12 July 2015).

that [the captors and Lieutenant Goldin] never left the tunnel,” the Givati Brigade enquiry confirmed.¹⁰⁴ A similar assessment was also communicated by Hamas’s military wing on 2 August:

“Until now, we at al-Qassam have no knowledge of the missing soldier, his whereabouts or the circumstances of his disappearance... We have lost contact with the mujahedeen unit that was in that ambush, and we think that all the fighters in this unit were killed by Zionist shelling along with the soldier, who the enemy says is missing.”¹⁰⁵

Given that the forensic report has been kept secret, it is impossible to independently verify the cause of Lieutenant Goldin’s death and whether it corresponded to the Israeli version that he was killed by Hamas bullets at 9.06am or the Hamas version suggesting that he might have been killed when a bomb crushed the tunnel on top of him.

Despite the determination that Lieutenant Goldin had died, the Israeli military continued its attacks in the Rafah area on 2-3 August.

Destruction continues

On 2 and 3 August the Israeli army continued the destruction of greenhouses and homes, apparently as part of the search for Lieutenant Goldin or his remains. Large areas of fields and orchards at the outskirts of Rafah turned into wasteland.

The practice is referred to by the Israeli army as “exposure”, which involves bulldozers and other heavy mechanical equipment digging out tunnel entrances and exits.

A major in the Engineering Corps described to Breaking the Silence the procedure of demolishing a tunnel:

“When arriving at the area of the tunnel, about 100-200m from it, we would assess which locations could command the tunnel opening. We identified the opening itself, and two rows of buildings a kilometre away that command it. Then tanks would come and fire at those buildings. You’ll have all kinds of other buildings around the tunnel – so a D9 [bulldozer] comes over and flattens the entire area.”¹⁰⁶

The military did not manage to retrieve the remains of Lieutenant Goldin’s body. Heavy bombing of tunnel areas reduced the likelihood of finding him. His funeral on 3 August, arranged in an exceptional fashion, eventually allowed the Israeli military to leave the Gaza Strip without admitting that they had left a soldier behind. By 2pm on Sunday 3 August, the Israeli army had withdrawn most of its soldiers from Rafah.¹⁰⁷ Forensic Architecture was able to locate at least two images of

¹⁰⁴ Israeli army Radio (Galei Tzahal), “Exclusive: New Details about the Rafah Battle” (in Hebrew), 14 April 2015, <http://glz.co.il/1138-61304-he/Galatz.aspx> (last accessed 12 July 2015).

¹⁰⁵ AFP, “Gaza truce collapses in new wave of violence”, 1 August 2014, in Yahoo News, <http://news.yahoo.com/gaza-truce-collapses-wave-violence-234934956.html> (last accessed 12 July 2015).

¹⁰⁶ Breaking the Silence, *This is How We Fought in Gaza*, testimony 53, p. 131.

¹⁰⁷ Haaretz, “LIVE UPDATES: Operation Protective Edge, day 27”, 4 August 2014,

smoke plumes on 3 August indicating that aerial attacks had not ceased.

The D9 bulldozers, the digging equipment and the securing forces were the last units to leave the Gaza Strip on 4 August. The conflict continued until 26 August as a series of cross-border fire exchanges that saw the significant escalation of aerial bombing.

Comparing satellite images from 14 August with those from 1 August reveals that the armoured vehicles entering Gaza started from a “staging area” next to the entrance of the civilian community of Kibbutz Sufa.

SHIFT IN PROPORTIONALITY

The pounding of Rafah continued for three days after the initial strikes of 1 August. Under the veil of the Hannibal Directive, the Israeli army enacted a “gloves off” policy whereby it struck general targets from its “target banks” – a continuously updated list of targets prepared by the military intelligence – that were not previously authorized because they were determined to involve too high levels of collateral damage.¹⁰⁸ This type of bombing continued even after the Israeli army’s chief rabbi signed Lieutenant Goldin’s death certificate.

The striking of these type of targets points to a shift in the Israeli army’s own proportionality calculations and appeared to be meant to generate a level of destruction that would deter future capture attempts. Colonel Ofer Winter, commander of the Givati Brigade, who activated the Hannibal Directive on 1 August, suggested he was clear about the logic of the action taken: “Anyone who abducts should know that he will pay a price. This was not revenge. They simply messed with the wrong brigade.”¹⁰⁹

Post-conflict briefings to soldiers and public statements of Israeli officers suggest that the high death toll and massive destruction were not seen as regrettable side effects but “achievements” or “accomplishments” that would keep Gaza “quiet for five years”. An Intelligence Corps soldier quoted senior army officers saying: “2,000 dead and 11,000 wounded, half a million refugees, decades’ worth of destruction. Harm to lots of senior Hamas members and to their homes, to their families. These were stated as accomplishments so that no one would doubt that what we did during this period was meaningful.”¹¹⁰ Another Israeli soldier told *Breaking the Silence* that the aim in bombings was to “deter them, scare them, wear them down psychologically”.¹¹¹

<http://www.haaretz.com/news/diplomacy-defense/1.608548> (last accessed 12 July 2015).

¹⁰⁸ Israeli army Radio (Galei Tzahal), “Exclusive: New Details about the Rafah Battle” (in Hebrew), 14 April 2015, <http://glz.co.il/1138-61304-he/Galatz.aspx> (last accessed 12 July 2015).

¹⁰⁹ Interview with Colonel Ofer Winter by Yossi Yehoshua in *Yedioth Ahronoth*, 15 August 2014 (paper-only edition).

¹¹⁰ Peter Beaumont, <http://www.theguardian.com/world/2015/may/04/israeli-soldiers-cast-doubt-on-legality-of-gaza-military-operation> “The Guardian”, 4 May 2015, <http://www.theguardian.com/world/2015/may/04/israeli-soldiers-cast-doubt-on-legality-of-gaza-military-operation> (last accessed 12 July 2015).

¹¹¹ *Breaking the Silence*, “Deter them, scare them, wear them down psychologically”,

Israeli army spokesman Lieutenant Colonel Peter Lerner said Israel's assaults were mostly aimed at convincing Hamas never to try it again: "When they come out of their bunkers and they look around, they are going to have to make a serious estimation of whether what they have done was worth it."¹¹² These statements indicate an intention to generate material damage as deterrent.

The Israeli army's firing policy has been revealed in a number of testimonies from soldiers and officers serving in the field and from command centres. These testimonies, given to Breaking the Silence, confirm targets that were not previously authorized, because military planners deemed they involved too high a level of civilian casualties, were authorized after the Hannibal Directive was launched. They describe three levels of fire.¹¹³ The first expects a "low level of civilian harm", the second a "moderate level" and the third a "necessary level", where a high level of harm to civilians is expected.¹¹⁴ Every level routinely requires authorization from different levels of command, unless the forces involved are at immediate risk or a Hannibal Directive is declared, in which case the decision is left to the field commander in charge.¹¹⁵ According to the testimonies, after the Hannibal Directive was declared many targets that were classified as the highest level, such as multi-storey buildings or structures located in densely populated areas, were approved for attack and attacked regardless of whether they would help extracting the soldier.¹¹⁶ A military planner describes the determination of targets:

"In the 'Hannibal Procedure', you [hit] all the targets that you've prepared in advance, all optional targets. I brought them a list of targets for preliminary approval, and they told me: 'That's not enough targets, come back [with more].' Now, I look at the aerial footage, and I don't know if there are civilians in there, I don't know anything. I'm allowed to designate a seven-story building as a target, I'm allowed to order a 'debilitating strike' along this 600m stretch which is a central route. Hannibal is like, everything's allowed."¹¹⁷

According to data from the Palestinian Human Rights Coalition, between 1 and 4 August 2,579 houses were destroyed completely or partially, with 2,201 houses on 1 August, 240 houses on 2 August and 138 houses on 3 August.¹¹⁸

<http://www.breakingthesilence.org.il/testimonies/database/760951> (last accessed 12 July 2015).

¹¹² AP, "Even if rockets remain, Israel hopes massive air campaign will deter Hamas from firing again", 14 July 2014, in Fox News, <http://www.foxnews.com/world/2014/07/14/even-if-rockets-remain-israel-hopes-massive-air-campaign-will-deter-hamas-from/> (last accessed 12 July 2015).

¹¹³ Breaking the Silence, *This is How We Fought in Gaza*, testimony 91, pp. 198-199; testimony 109, pp. 229-230.

¹¹⁴ Breaking the Silence, *This is How We Fought in Gaza*, testimony 107, pp. 226-227; testimony 95, pp. 204-205.

¹¹⁵ Breaking the Silence, *This is How We Fought in Gaza*, testimony 107, pp. 226-227; testimony 91, pp. 198-199.

¹¹⁶ Breaking the Silence, *This is How We Fought in Gaza*, testimony 95, pp. 204-205.

¹¹⁷ Breaking the Silence, *This is How We Fought in Gaza*, testimony 103, pp. 219-220.

¹¹⁸ Al-Haq, *Divide and Conquer*, February 2015, <http://www.alhaq.org/publications/publications->

CASES

BIN HAMMAD FAMILY

During an ongoing offensive that included missile and tank fire, at 10.53am on 1 August the Israeli military attacked the Abu Shawareb building in the al-Tannur neighbourhood with an air strike. An aerial bomb destroyed the building, killing at least 18 people and injuring scores of others.

On the morning of 1 August, Inam Ouda Ayed bin Hammad, 26, was sheltering with her three children– Anas, 5, Mutasim 6, and Remas, 3 – at her uncle’s home in the al-Tannur neighbourhood, because her own home, on al-Balbisi Street, in the eastern part of Rafah, was built of corrugated metal sheets and not safe. Inam bin Hammad told Amnesty International that she heard repeated attacks in the vicinity of her uncle’s home. Three of her nieces, two of whom are children, were also there. “It was just me and my children as my husband was out helping another family [the Emran family] whose house had been shelled,” she recounted.

After 9am the shelling intensified and munitions were falling close by. Inam bin Hammad and her family decided to leave the house as the situation was getting more dangerous. “I decided to seek shelter in my brother Fathi’s home, only two houses away... I went there with my three children and my three nieces,” she recounted. “The minute I left the house and was between my uncle’s and brother’s houses, an Apache [helicopter] started shooting at us... I banged on my brother’s door asking him to open up.” Members of the Abu Hani family were also taking shelter there; the family’s mother and her five children were later killed.

“We were there for about an hour and a half, while munitions continued to fall in close vicinity. My uncle Nasser [al-Mahmoum] and cousin Jihad [al-Mahmoum] were both injured by the shelling. We were afraid the situation would turn into a massacre like al-Shuja’iyyeh.

“Hani, who later died, came and told us we had to leave like everyone else. When we opened the door, I saw another family walking down the road, so I thought to myself since it was safe for them, we should go with them.”

Inam bin Hammad and her three children, together with other relatives and members of the Mustafa family, left her brother’s house and proceeded to walk down the street to seek safety elsewhere. She was carrying her daughter Remas and her cousin Wafa was carrying her son Anas. They passed about six houses with great difficulty, while munitions of all kinds were landing in their close vicinity. “The shells were raining down on us,” Inam bin Hammad recounted. “If you were hit by one of those, it could cut you in half.”

She recounted the moments before an attack struck a main street in the al-Tannur neighbourhood close to the Abu Shawareb building and led to the death of her son Anas, her cousin Wafa and several others and injured scores of those who were fleeing in the streets at the time:

“As soon as we crossed to the paved road I felt safer. I reached the paved road first and, as my cousin was starting to cross over, my brother shouted at her not to cross as they might shell the road. I looked behind me and found Wafa and the others telling me to go back. There was no way for me to go back. Wafa and her mother and my son remained behind us.

index/item/divide-and-conquer (last accessed 12 July 2015).

At the same time, people from the al-Tannur area arrived on the street that comes out of 'Abu Shawar' – around 60 of them.

"The last thing I saw was my son carried by Wafa and he was looking for me – I shouted 'here I am, here I am' and suddenly there was smoke, dust and rubble and shrapnel flying above."

A concrete slab fell on top of her and she lost consciousness for several minutes before realizing that her leg was severely injured. She managed to stand up and find her daughter Remas and then her niece Heba, who had sustained severe injuries in her leg and was unable to walk, and help her out of the rubble. Heba was later transferred to Turkey for medical treatment.

Her cousin Wafa, who had been carrying her son Anas and had taken shelter near the Abu Shawareb building, was killed when a concrete wall collapsed on top of her.

Iman bin Hammad recounted that when an ambulance came to collect the injured, "a drone dropped a missile to deter it from moving any closer to the house." The ambulance had to retreat and those who had survived the attack, some of whom were severely bleeding, had to wait for an additional 30 minutes. On al-Balbisi Street, Iman bin Hammad recounted, Dr Mohammed al-Balbisi was providing first aid to everyone while the shelling persisted.

She described the situation when another ambulance came:

"The ambulance did not want to take us, but finally agreed seeing how difficult the situation was. When I looked back as I was getting into the ambulance at the Abu Shawareb building, I saw that it had been shelled. I was sure my son was gone. After I was treated in the hospital, my son's body was brought in one hour later. They found half of his lower body, which had been carried all the way to near al-Balbisi's house, but they could not find the rest of his body for three days. They later found his head at Ibrahim Hijazi's house and his hands somewhere else. They never found his upper body."

The attack killed 13 members of the al-Mahmoum family, and several others.

These and other accounts by residents of attacks throughout al-Tannur neighbourhood during the same timeframe, indicate that the bombing of the empty Abu Shawareb building when scores of civilians were in the immediate vicinity trying to flee intense bombardment, was at best disproportionate. Even if the house did cover an opening to a tunnel, dropping a one-ton bomb on the building when it could have been foreseen that so many civilians would be killed and injured was clearly disproportionate. The artillery shelling of the area was indiscriminate and the reported helicopter fire at civilians and ambulances amounted to direct attacks on civilians.

LAFI FAMILY

At approximately 9.15 am on 1 August, amidst ongoing heavy Israeli bombardment of the al-Tannur neighbourhood, an Israeli missile struck members of the Lafi family when they were fleeing the area near the Abu Youssef al-Najjar roundabout, killing one family member and killing or seriously wounding two women and injuring others. A second missile killed another man.

"It was a black day. I cannot think of a worse day," said Abdel-Rahim Abdel-Karim Lafi. On the morning of 1 August, he was with two of his sons in the al-Tannur neighbourhood, near the Omar Abdel-Aziz Mosque, while his eldest son, wife and daughters were at the market. He recounted:

"The shelling started at 9am or 9.15am. My son Yehya [who later died] was on the balcony and told me people were running away. Then my eldest son called and said the police were

not allowing anyone into the area near the Abu Youssef al-Najjar roundabout because of the shelling... and told me to leave the house."

He and his son Yehya decided to leave the house and walk in the direction of the Abu Youssef al-Najjar roundabout, where they were injured in an attack by what appeared to be a drone:

"We reached the Abu Youssef al-Najjar roundabout when the first missile fell about 13 metres ahead of us. I was walking in front of my son and told him to walk behind me so that, if anything happened, the missile would hit me and not him. I wanted to protect him. I fell and was injured in my right leg. When I looked next to me I found my son. He looked up at me for seconds and died immediately after. When the first missile fell, two women to the right on the road towards Abu Youssef al-Najjar roundabout died."

A moment later, while Abdel-Rahim Lafi was sitting on the ground beside his dead son, a second missile struck "about eight metres away from me", and he saw a young man in a blue shirt fly into the air. He said:

"A man yelled at me to move away, to move back, which I did, while the shelling continued. People were running, some were dying, many were injured. The [attacks] were coming from the eastern areas."

After realizing that the ambulance was unable to access the area, Abdel-Rahim Lafi walked to the Abu Youssef al-Najjar hospital to find his older son. "They brought [Yehya] in and I said my goodbyes to him before they put him in the refrigerator, while the rest of my children watched," he recounted. "The doctor X-rayed my leg and said I had shrapnel in it and I would need a drip. There was chaos in the hospital; I was on the floor with many other patients."

His brother informed him that his sister's husband and two children were wounded and were in the hospital. His 60-year-old brother-in-law had a broken leg and an injury next to his heart, with shrapnel injuries all over his body. Both of Abdel-Rahim Lafi's brother's sons, aged 11 and 17, sustained serious head injuries and required prolonged medical treatment.

Abdel-Rahim Lafi had to evacuate the hospital with others that afternoon amid intensified attacks on its premises. "My wife, children, brother and sister, nine of us, had to leave through the back door of the hospital because the front entrance had unexploded bombs near it. There was shelling next to the hospital, and a missile fell in front of the back entrance," he recounted. "We left two at a time with my brother and I leaving last. We walked to the al-Jenina district." He said:

"They were hitting the whole street, from Salah al-Din intersection to the Abu Youssef al-Najjar roundabout to the intersection of Ghaboun to the intersection of al-Madakha, then to where the Madakha road meets Saddam Hussein road. All those intersections were bombed completely."

It is possible that one of the intended targets of the attack was a motorcycle that was passing by at the time and may have been carrying a fighter, as local groups reported. Amnesty International was unable to verify whether this was the case. Even if it were the case, the use of such massive firepower in a populated neighbourhood indicates that the attack was disproportionate or otherwise indiscriminate.

QISHTA FAMILY

At approximately 9.30am on 1 August, a number of members of the Qishta family fled the al-Tannur neighbourhood to safety. As they did so, they witnessed heavy bombardment of a civilian area. Ahmed Qishta stayed behind, however, and was killed the following day.

Samira Aliyan Hamdan Qishta, 45, had returned to her home on George Street, in the al-Salam district, on the morning of 1 August. Her eldest son Ahmed, 20, had been staying there throughout the war. That morning, Israeli forces began to heavily bombard the area. She described the situation:

"I was cooking breakfast at around 10am when the really heavy bombing started and shells fell everywhere. I tried to go and bring my in-laws to our home – they live across from us – because their house is built out of corrugated metal sheets, while ours was concrete and so sturdier. Getting there was very difficult because of the shelling; I crawled there with the shells falling all around me. My husband tried to leave the house, but couldn't because of the bombing. Shrapnel was entering everywhere."

She fetched her in-laws and brought them to her house, where they stayed there for about an hour before the attack intensified and they decided to flee the area. She recounted:

"I leaned against the wall and two minutes later shrapnel bounced off the wall next to me. My husband said he had a bad gut feeling and said we should leave... I was barefoot and my feet felt like they had walked on thorns. We walked and crawled to the end of our road while a drone fired missiles down on us and tore up the olive trees. Other people were running with us, all raising white flags... I became so tired my feet just stopped moving. My husband kept pushing and dragging me till we reached my brother-in-law's house at the end of the road."

Samira's daughter, Maysa Hamdan Qishta, 17, recounted the family's close escape:

"By 9.30am the shelling was increasing near my cousin's house, so I went over to see if they were alright. She asked me to take her young son, Ahmed, so he could be safe in our house. As soon as I left the house with little Ahmed held close to my chest, shrapnel fell and the street's asphalt was breaking up. I kept running and missiles kept falling in every place I had just left. I was shielding the boy from the missiles."

"We heard neighbours calling out to us to get out. When we did, we started running, while helicopters, F-16 planes and artillery kept bombing. We arrived at my uncle's house at the end of the road and five minutes later, the house across the road from them was shelled. We continued running. The asphalt on George Street was all broken and there was shrapnel everywhere; we barely avoided being hit by it."

The attacks that Samira and Maysa Qishta described appeared to be indiscriminate.

Samira Qishta's son, Ahmed Shteiwi Hamdan Qishta, 20, stayed behind to tend to his chicken farm. At around 5pm on 2 August, an attack on al-Matar Street in the al-Salam neighbourhood, north of Rafah, apparently carried out by a drone-launched missile, killed Ahmed.

AL-SABA FAMILY

At approximately 9.30am on 1 August, the al-Saba family fled the al-Tannur neighbourhood safely. As they did so, Mohammed al-Saba witnessed an elderly woman die during heavy bombardment of a civilian area.

Mohammed Mahmud Salam Abu al-Saba, 42, and his family had taken shelter in schools since the first day of the 50 days of hostilities. He witnessed repeated Israeli air strikes on civilians and what appeared to be civilian vehicles in the Mashrou' Amer area of Rafah on the morning of 1 August, when he and his family attempted to flee the area.

After a ceasefire was announced on the morning of 1 August, Mohammed al-Saba and his family used a donkey and cart to return to their home in the Mashrou' Amer area. Mohammed al-Saba said that his 52-year-old sister and his eight young children, three girls and five boys, were caught in that morning's attacks on Salah al-Din Street:

"When we arrived in Mashrou' Amer, there were trucks there – the type that come from the border crossing. They had just been struck and the drivers killed. Then a dark car came – a taxi – and they were also hit. The two inside were killed. Then a Vespa [moped] came by and it was also hit.

"So we left the donkey and cart and escaped. We went into a house... and then they struck the cart and the donkey died. Everything, all our belongings we had in our cart was lost. After we'd escaped from the cart and entered the house, all the floors began to be bombed. So we moved from house to house. I don't know where the children went. Everyone escaped by themselves."

When they managed to finally reach the Abu Youssef al-Najjar roundabout, Mohammed al-Saba said, they saw an elderly woman carrying a boy: "She was hit by a missile from a drone. She died. I saw this. In front of me people standing [in al-Balbisi Street] were hit."

Mohammed al-Saba realized that two of his own young children were missing – he found them later that day. An ambulance arrived and took him and his other children to the Abu Youssef al-Najjar hospital, where they stayed until the hospital was evacuated that afternoon under fire. He recounted:

"The hospital staff began to shut down the hospital. We began to move families to the schools. We went from the Abu Youssef al-Najjar hospital to the schools. There were many injured. Some of those injured in the hospital were taken to another hospital. Others walked with us."

He found his two missing children, aged four and five, at Zahar school. "They'd escaped with the people. I found them in Zahar school on the way," he recounted. "I was so worried about getting separated from my children. I thought they'd died. I was going mad looking for them."

Mohammed al-Saba's description of the events is corroborated by accounts from many other residents fleeing the area at the same time. Many lost family members in the chaos. The attacks that Mohammed al-Saba described appeared to be indiscriminate, with all vehicles evidently being targeted without distinction.

ABU MOHSEN FAMILY

An Israeli bombardment in the close vicinity of the home of the Abu Mohsen family north of Salah al-Din Street shortly after 9.30am on 1 August resulted in the death of Saleh Abu Mohsen's daughter.

An Israeli attack on the family home of Saleh Hussein Abdel-Karim Abu Mohsen, 44, in al-Shuka in eastern Rafah, caused the family to flee into the street. Saleh Abu Mohsen recalled the situation that morning:

"We heard a huge number of [air strikes and munitions] falling nearby. I would not be exaggerating if I told you that around 50-60 shells were falling every minute. One of the missiles fell while I was in the house and destroyed the fence. Later, another missile fell and the living room door flew about three metres from its frame..."

"I left with my daughters and the wife of our neighbour, walking towards the Mashrou' Amer intersection, 400 metres away. We left the house at exactly 11.01am. When we reached there I was surprised to find a [truck] trailer on fire..."

"I found tanks in front of the Sa'ad Sayel barracks. The tanks fired at us. There were four or five tanks on both sides of the road. I looked for a safe house for the girls and the first house I came across was that of al-Sayed Hamdan al-Shaer, known as 'Ukush'. There was a pregnant woman and children and another woman crying, and the owner of the house."

He recounted that he had agreed with his daughters beforehand "to walk in two groups separated by a distance of 10 metres" in case they were hit. "This way some of us stood a chance of being saved and not all would be killed," he said. When Saleh Abu Mohsen was crossing the Mashrou' Amer intersection, he looked behind him and could no longer see his eldest daughter, Asil, 17. He said:

"I left two of my daughters there for a few moments and went back to look for my eldest daughter. I called out to her to find her and save her. I could not move forward because of the heavy shelling. It was madness: an incredible number of missiles falling... I took the two girls and ran towards Abu Youssef al-Najjar Street to try and find an ambulance. When I arrived there the ambulances were too busy because so much was happening in eastern Rafah and because no one dared go east of the hospital."

Saleh Abu Mohsen spent five hours at the Abu Youssef al-Najjar hospital before an order was given to evacuate it. "As we evacuated I passed by the home of the Sarafandi family, which had been annihilated – it added to my fears," he recounted.

Four days later, Saleh Abu Mohsen received a call from a Rafah resident about the location of Asil's body. He described what he found when he arrived there:

"Her body was decomposed. There were white maggots coming out of her body and it was swollen. Her legs were swollen and she had blood on her face; it was very difficult. She had a head injury, then I couldn't look at her any more. My brother looked and saw another bullet wound in her chest. She also had shrapnel on her body. I had gone there hoping to find her alive; she had had so many dreams and hopes like any young person her age. She had just finished secondary school and was hoping to apply to university. She could not fulfil her dreams."

"We took her to the hospital and they prepared her very quickly for burial. We buried her without thinking, as she was, even her mobile and jewellery were buried with her – we had never experienced anything like this before."

"I could not let the other members of the family see her before the burial even though it is customary to. I did not want them to remember her in her decomposed condition."

Given the circumstances of the attacks by Israeli artillery, tanks and aircraft on the morning of 1 August, it is likely that the attack that killed Asil Abu Mohsen was indiscriminate.

ABU DUBA FAMILY

Mohammed Abu Duba's father and brother were killed in a strike on the Mashrou' Amer area on 2 August.

Mohammed Khalil Mohammed Abu Duba, 20, and his family were trapped in their home on 1 August by heavy Israeli shelling in the area. They escaped the area on the evening of 2 August. When Khalil Abu Duba, Mohammed's father, and Munir Abu Duba, his brother, drove back home on

2 August to collect the family's belongings, they were killed by an attack during a larger Israeli offensive on the Mashrou' Amer area.

Mohammed Abu Duba recounted the conditions in which the family was trapped in their house on 1 August and the intense artillery and air bombardment in their immediate vicinity:

"The F-16 airplanes appeared and hit us with over 15 missiles one after the other with minutes in between. They fell on all the homes around our house... most of them civilian homes with nothing to do with anything. They were random hits. Before this happened, we wanted to leave, we were fed up."

At approximately 11pm on 1 August, Mohammed Abu Duba heard sounds of tanks clearly, "as if they were next to" his home:

"They struck the house and I no longer saw what was happening... My younger sisters and father and mother were under the stairs in case anything happened. I was on the stairs with my uncle and brother Munir."

"The tanks were right next to our demolished house, one side of the tank touching the fallen masonry of our home, and continuing to fire. And another in our street, one behind and one in front of Mashrou' Amer. There was no way of getting out of the area – impossible... Munir went up to the roof – without of course our father knowing – and he began to count the flags on top of the tanks. They numbered about 37 or more just in... our area..."

"There was no way of getting out of the area - impossible. Even if we had fled from where we were, we would not have been able to get out of the area because of the drones and bombardments."

Mohammed Abu Duba recounted that he and his family were too afraid of shelling even to go next door to help a woman they heard screaming. The phone lines were all down, leaving the family isolated.

On 2 August, about 10 minutes before the sunset prayer, the family decided to escape. Mohammed Abu Duba said:

"We went up to the rooftop and saw the bulldozers from far away demolishing buildings one by one. And one of them was coming towards us. The tanks had [begun to move to Khan Yunis] but the bulldozer was coming towards us."

Bombardments began to strike closer to their home, Mohammed Abu Duba recounted:

"My father said we're going to die. If we die, we die... So we all got into the car. All of the window glass was smashed. We all got in with our belongings..."

"We went towards the area around the municipality building. I can't describe what we saw. It was as unrecognizable as our area. They weren't our streets. The cemetery is better by a million times than those streets. There were bodies... on the street and there was not enough room in our car to carry them. The municipality building was burnt and shattered glass was all around. There was not a single undamaged building."

He described what they saw when they arrived at the Mashrou' Amer intersection:

"I looked and saw three trucks drawn across to block the street; their windows covered in bullet holes and the tyres punctured. There were bodies in there. They [Israeli army] had killed the drivers..."

"I looked out left and right and saw bodies every three or four metres. Every three or four metres a child, a woman, a young boy, a young girl. All dead. We were looking to see if there was anybody moving. But they were all dead. None of the bodies was intact."

Later on 2 August, Mohammed Abu Duba's father and brother Munir drove back to their destroyed home and retrieved their belongings. They were killed while leaving the area again. Mohammed Abu Duba heard the news that a Mercedes car had been hit next to the Mashrou' Amer intersection and was worried because his relatives had been driving in such a make of car. He recounted that ambulances could not access the scene, since they required a permit which could take two hours, even if there were injured people there who could die imminently. He decided to go to the scene of the attack on foot:

"I started to look in the shops for Munir. I found their bodies 200 metres away from the car. There was nobody around. When I found them, there were lots of bodies in front of them... Nobody was responding. I thought perhaps there would be injured."

"I rang Munir's phone and heard it ringing. I said 'thank God'. It was the ring tone I recognized ringing around me. I looked and saw... he had been thrown onto high voltage wire... If it hadn't been for his shirt, I wouldn't have recognized him. I ran to him and pulled him off the wire. He and I both fell to the ground. I looked at him. His face and left hand were all burnt and all his fingers were cut off except for one: his forefinger. I embraced him. I turned off his mobile phone. And carried on holding him."

"I wondered where my father was. I looked around and found him strewn about six metres away without a head. I ran to my father but before I got to him I fell, fainted. I tried to reach him but I couldn't. I called for help but nobody was around. Every time I tried to carry him I fell over. I fell to the floor and lost consciousness. Every time I woke up I saw him and so fainted again."

Suddenly, he saw his uncle running in the distance towards him:

"I thought I was dreaming and that none of this had happened. My uncle thought I was injured. When he reached me he saw my father and brother. He screamed and collapsed next to me. The ambulance came to take them and brought them to the Kuwaiti hospital."

It is unclear why Israeli forces attacked the area at the time, since the attack occurred after Lieutenant Hadar Goldin's death was officially declared. The Israeli army was under an obligation to take all precautions to verify that the car was indeed a military objective, and if in doubt to assume that it was civilian. The attack on the Abu Duba's car therefore appears to have been undertaken without proper precautions.

AL-GHARIB FAMILY

At about 10.30 am on 1 August a missile fired from what appeared to be a drone killed a father and his daughter on their way to the Abu Youssef al-Najjar hospital from their home in eastern Rafah.

Mohammed Baha al-Din al-Gharib, 22, a resident of al-Zuhur district, told Amnesty International that an Israeli air strike killed his father Baha al-Din Kamel al-Gharib, 58, and sister Ula, 16. A missile fired by what appeared to be a drone hit them while they were on their way to the Abu Youssef al-Najjar hospital, said Mohammed Gharib:

“My father had just returned from the supermarket and he and my sister Ula were on their way to the hospital at 10.30am. They walked through a side road to avoid the main road [Salah al-Din Street], which was being shelled. A drone hit both of them.

“My other sister saw smoke coming from the area they were walking in and came running to tell me. I ran there and found my father thrown to the ground and lying on his back. Ula was on the side. My father had lost his legs and his elbow had been cut off; he had shrapnel in his back, which was also full of holes from the shrapnel. He also had shrapnel in his stomach. My sister Ula had lost her right leg and shrapnel had punctured her eye approaching her brain, and another piece of shrapnel had slit her throat.”

The shelling in their immediate vicinity continued. An ambulance eventually made its way to them after much difficulty. Mohammed Gharib explained:

“They found Ula already dead and my father was barely hanging on to life. They took them both to the hospital. We have no idea why they were targeted. My father had worked for Palestine TV as a Hebrew news editor and also reported on sports. He had not worked in the past seven years.”

It is unclear why Israeli forces fired the missile that killed Baha al-Din and Ula al-Gharib. The circumstances of the attack suggest that it was at best indiscriminate.

ARAFAT FAMILY

Shirin Arafat was caught in the heavy bombardment of the al-Tannur neighbourhood as a one-ton bomb struck the Abu Shawareb building on 1 August, killing at least 18 persons, including her baby son Mohammed, and wounding dozens more.

Shirin Jamal Arafat, 25, and her four children were fleeing through the Mashrou' Amer area amid heavy bombardment when an attack killed her 55-day-old child, Mohammed, and seriously injured her.

They had left their home in eastern Rafah at about 10am on 1 August with a large group of other neighbourhood residents who were fleeing their homes on foot. Shirin Arafat recounted that she had left her belongings behind in order to be able to carry her son in her arms while fleeing the area. “We walked a little while and found that the tanks were shooting by the Abu Shawareb [building],” she said. “The first thing was the F-16 shootings, and then came the tanks.”

According to the Al Mezan Center for Human Rights, Mohammed Arafat was one of at least 15 civilians who died in an attack by a one-ton bomb on the Abu Shawareb building between 10.30am and 11am. Accounts of the number of people who may have been on the street at the time of the attack differ, but hundreds of people may have been close to the building when the bomb struck and affected an area of around 100 square metres. Shirin Arafat described the moment her son died:

“I was injured and my son was in my hands. He died in my hands... My son got hit in the head and his face split open. I lost consciousness. Then they moved us to the Abu Youssef al-Najjar hospital. When they were moving me, they thought I was dead. My face was disfigured.”

Shirin Arafat sustained serious injuries in her leg and back, and a shrapnel injury in her head, which the hospitals in Gaza were unable to treat. “After four days they found maggots [in the head wound],” she recounted. “The shrapnel was taken out in the [Gaza] European hospital when they found maggots. And then after 11 days in the European hospital with no luck, they moved me to al-

Maqased [hospital in Jerusalem] because I could only breathe with mechanical help.” She underwent treatment and rehabilitation in Jerusalem until late September 2014.

The attack on a residential building with a one-ton bomb despite the nearby presence of large numbers of civilians indicates that the Israeli military failed to take adequate, if any, precautions to avoid excessive harm to fleeing civilians. Even if there had been a military target in the building (there is some indication that the Israeli army thought there was a tunnel entrance there), the attack appears to have been grossly disproportionate.

ABU YOUSSEF AL-NAJJAR HOSPITAL

From 11am onwards on 1 August, the Israeli army conducted air strikes and used artillery and tank fire in the immediate vicinity of the Abu Youssef al-Najjar hospital, damaging the buildings and by 3.30pm resulting in the evacuation of scores of patients.

On 1 August 2014 the area around the Abu Youssef al-Najjar hospital in Rafah was shelled and bombed. Dozens of medical staff, patients and those who had taken refuge in the hospital were wounded and the structure of the hospital was damaged. On the same day three ambulances went to collect wounded people near a mosque in Rafah; one ambulance was hit by what appeared to be three drone-launched missiles and completely destroyed. The three medics and all the wounded within the ambulance were burnt to death. A second ambulance left, while the other, which remained to collect the wounded and dead, was hit by another apparent drone strike.

The Abu Youssef al-Najjar hospital, the main hospital serving a population of 350,000 in Rafah, was evacuated on 1 August as shells dropped around it and after orders from the Israeli military that it must be evacuated. Amnesty International received accounts of what happened from four different medical staff working at the hospital, including the hospital’s director.

After a truce had been agreed the previous night, people in Rafah had begun moving outside again on the morning of 1 August, to visit their homes or relatives, or to buy provisions. However, soon after 8.30am, when reports of the capture of an Israeli soldier emerged, the Israeli military began to shell areas of Rafah around where the presumed capture had taken place and shells started striking near the hospital, which was some 800 metres from the house where captured Israeli soldier Lieutenant Hadar Goldin was thought at one time to have been held.

An Amnesty International fieldworker spoke to several members of the hospital staff working in the hospital that day, including Dr Abdullah Ramadan Shehada, the hospital director; Dr Ashraf Mahmoud Hijazi, head of surgery; Dr Youssef Hussein Abed, a surgeon; and Dr Majed Ayesha Abu Taha, a bone specialist. Dr Ashraf Hijazi, who arrived at the hospital at 9am, described what was happening:

“While I was receiving patients I heard bombs dropping outside, which kept getting closer to the hospital. When I came down to the ground floor I saw the hospital was full of people who had escaped the attacks. Doctors were unable to treat patients due to the large influx. The attacks were getting closer; a house 20 metres from the hospital was targeted.”

By that time, he said, “Many people were coming in and the ambulances were rushing back and forth. The hospital staff were unable to deal with all the cases; some were untreatable. The number of martyrs was huge. We couldn’t count them. Because of the situation in the hospital we had to transfer people because we couldn’t deal with them.”

Dr Abdullah Shehada, the director, who came in after 9am, said: “Every 10 seconds there was an explosion, about eight shells each minute... There were hundreds of injured and tens of people

killed.” The attacks increased in intensity and, around noon, the electricity was cut and the ceiling collapsed.

“People from the neighbourhood started to come to the hospital as they thought that the hospital would be a safe place. The hallways were full of people – it was really hard to transfer patients from one section to another,” said Dr Majed Abu Taha:

“Most of the injured were children, some less than 12 years old, some between 12 and 16 – the number of kids was huge. Many women too. Most of them were women and kids. Due to the large number of cases, including amputee injuries, we had to transfer them to other hospitals. The surgery room was full and all eight ambulances were out. When we would call another ambulance it would take two hours to arrive at the [Abu Youssef] al-Najjar hospital.”

Meanwhile, Dr Abdullah Shehada said he kept calling the International Committee of the Red Cross (ICRC) and the Palestine Red Crescent Society (PRCS) to ask them to tell the Israeli army not to attack. At 1pm, Dr Abdullah received a telephone call from the Israeli army asking him how they could help him. He said that he wanted them to stop the bombardment of the hospital. He said that the person he was speaking to replied: “Even if we stopped firing missiles there is something wrong outside the hospital.”

The doctor said: “The attacks are only targeting civilians who came from the eastern area of Rafah to find a safe place.” An hour after the call, at 2pm, the Israeli military stopped firing in the vicinity of the hospital. The Israeli army representative then called the director to tell him that they had stopped firing and Dr Abdullah Shehada requested co-ordination for the UN or other protected vehicles to transfer the injured and sick to other hospitals.

From 2pm to 3pm the situation grew calmer and transfers began to take place. However, after 3pm the shelling again intensified. “It was calmer. We didn’t want to eat as the situation was so horrible, but Dr Youssef Abed brought some food and put it in the office,” Dr Ashraf Hijazi said. He continued:

“I was sitting next to one window, Dr Youssef was sitting next to the other window, and then we heard an explosion next to the southern door. The fire burnt Dr Youssef’s hand and the explosion broke the windows. Dust was everywhere. We thought that the Israelis had attacked the hospital inside and not outside. Fire was inside the hospital.

“We went to the reception area and thought that it would be safer than the southern part. The ceiling fell down in some of the patients’ room and then when we arrived at the reception area we found Dr Abdullah trying to call the ICRC and PRCS asking them to send buses to the hospital, but they said that the area was unsafe.”

As the attacks become more intense, people started escaping the hospital from the west gate. Dr Abu Taha recounted:

“At 3.30pm most of the patients started running away from the hospital. They ran by themselves – there were no ambulances to carry them... They were carrying their IV drips and oxygen masks. The hospital was not safe.

“Dr Abdullah was calling different authorities, including the Minister of Health and the head of the [Gaza] European hospital to try to get co-ordination for transfers. There was then another call from the Israeli army, which said there was an abducted soldier in the hospital. The director vigorously denied it, saying there were only injured Palestinians and people from the area seeking refuge.

“Then the ICRC called saying that co-ordination for ambulances was proving to be impossible and that patients should be transferred using whatever means possible. The patients were transferred, mostly in private cars, to the Kuwaiti hospital – a hospital with only 20 beds and two operating rooms. Meanwhile people were running away, without knowing where to run to as the whole area was unsafe.”

The reasons for Israel's attacks around the Abu Youssef al-Najjar hospital appear to have been linked to the capture by Hamas of Lieutenant Goldin. Rumours circulating in the Abu Youssef al-Najjar hospital that a wounded soldier might be in the hospital were also reported by Israeli TV Channel 10. However, even if the Israeli military believed Lieutenant Goldin was in the hospital again, the attacks on the hospital and its vicinity were reckless and indiscriminate. International humanitarian law accords protected status to civilian hospitals which must never be the object of attack. Even if a hospital were being misused to commit acts harmful to an attacking party – and there is no indication that this was the case with the Abu Youssef al-Najjar hospital – according to the Fourth Geneva Convention, the protection enjoyed by the hospital may only cease after due warning and reasonable time for evacuation has been given.

Iyad Ali Salama Ghaboun, the owner of a fodder and poultry company whose home is close to the Abu Youssef al-Najjar hospital, witnessed its evacuation. He recounted that at about 2pm on 1 August, “there was a strike near to our home in empty land”. He said:

“It was a strike from an F-16 airplane. All our windows broke at that moment. I tried to calm the family that it was nothing and we were going to stay...”

“Suddenly, there was noise in the streets. It was between 2.30pm and 3pm. My brother looked out onto the street and came back saying, ‘Quick the hospital is being evacuated’. I looked at the hospital and will never forget what I saw. People leaving the hospital on hospital beds holding drips, being pushed on carts also holding drips. I saw doctors in hospital clothes carrying white sheets. And people were streaming out. This was in the street. There was a doctor – Ahmed Abu Zakar – he was holding a white screen and making people go down the street next to ours.”

Iyar Ghaboun and his family rushed to the car and fled the neighbourhood. “As we were driving away, a missile fell. I thought I had been hit,” he recounted. He said:

“At the end of Majdi Yunis street, a tuk-tuk [autorickshaw] had been hit next to the al-Khayyat supermarket. I knew that on the tuk-tuk there were seven people and it had been hit by a missile...”

“As we drove we saw cars – their doors open and engines still running – but not a single person in the street. We went down another street. There was a Vespa [moped] which had been hit. Its two passengers had been hit and parts of their bodies were on the ground still smouldering. And another missile fell in the same street. It was as if they were aiming at me – I don't know – firing warnings.

“There was fear. I had with me women and everyone was crying. The situation was very, very bad. What we saw was not just war; it was like a meat machine making mincemeat from people without mercy.”

AMBULANCE IN MUSABBEH, EASTERN RAFAH

At 3.30pm on 1 August a missile apparently fired from a drone struck an ambulance carrying eight people, including three medics, following an attack near al-Birr wa'l-Taqwa Mosque.

According to residents of the area, on 1 August after Friday prayers, at about 1.30pm, the Israeli army, who were shelling extensively in the immediate vicinity, told people to leave Rafah's Musabbeh neighbourhood. The residents in the area evacuated their homes and most took shelter in the al-Birr wa'l-Taqwa Mosque.

According to an eyewitness watching from the roof of his house, later in the afternoon, around 3.15pm, Suleiman Muhawish al-Hashash, 55, came from a dirt road and walked past the mosque looking for a car to take him and his daughter out of the area. A missile apparently fired from a drone hit them and they fell, wounded. Two people from the mosque, Ibrahim and Hazem Mohammed Sheikh al-Eid ran out at once to help them and immediately after a second missile hit them. Then a third missile hit the door of the mosque injuring Youssef Ahmed Sheikh al-Eid, Du'a Sheikh al-Eid and her three children, all under four years of age.

Three ambulances from the Abu Youssef al-Najjar hospital went to pick up the wounded. The first to arrive was carrying two medics, Atef Zamali and Youssef Zamali, and a young volunteer, Youssef Darabih, on board. They loaded the wounded from the three strikes into the ambulance and then headed back in the direction from which they had come. However, about 20 metres from the mosque, at about 3.30pm, the ambulance was hit by what appears to have been a drone-fired missile. The missile ignited the four oxygen cylinders within the ambulance, burning to death all eight people within it.

The other two ambulances had lost their way and so took longer to arrive. When they did, they saw the burning ambulance with the people, including small children, inside it. One of the ambulance drivers recounted that they were about 150 metres from the burning ambulance when it was attacked again by a missile, so they retreated and tried to take shelter under a tree. The heavy bombing and shelling around them continued.

One ambulance turned back towards the hospital; the other drove 150-200 metres away for fear that its oxygen cylinders would catch fire and stopped. According to Jaber Darabih, a paramedic in the second ambulance:

"We were notified that they had attacked the mosque in the Musabbeh neighbourhood and then three ambulances headed to the area. I was outside the hospital. The driver of the first ambulance was Atef but I didn't know who the two medics with him were. I was in the second ambulance and told to go to the attacked mosque. The first ambulance arrived less than 30 minutes before us. My other colleague didn't know where the attack was exactly. We went to the area and got lost.

"When I saw the fire, I didn't know it was the ambulance. Then when I got closer I realized it was the ambulance that was targeted and that it was full of injured persons – an old man, a woman and three children.

"We found a safe place. After that we were attacked next to our ambulance. A missile from a drone landed right next to our ambulance. There were no tanks. It was a missile. There were drones in the area. There was a civilian who we wanted to ask what had happened, when they targeted us and another drone missile landed injuring him in the attack."

They came back later that day to examine the ambulance and collect the bodies:

"They had extinguished the fire but the ambulance was already fully burnt – there was nothing left but the metal. This is when we understood that the three ambulance men and the injured people – a woman, two children and an old man – were all inside the ambulance. What we saw was really horrible. The ambulance looked like a tree branch that

was completely charred. The bodies had no parts – no legs, no hands – they were severely burned. So we took them out and put them inside plastic bags and brought them to the Abu Youssef al-Najjar hospital and put them in the refrigerator.”

It was only then that Jaber Darabih realized that his son [Youssef Darabih, the volunteer] was among the dead:

“My colleague was terrified. He started shouting and crying: ‘Where are the press?’ Then my colleague Shuheib came to me and embraced me and said ‘Youssef, Youssef’. And I said, ‘May his soul rest in peace.’ He said, ‘Youssef, your son, is with them.’ I didn’t know what to say. I didn’t know who to mourn, my son or my other two colleagues who were killed.

“My colleagues took me to wash my face and we sat in the emergency room. About five to seven minutes later the Israeli army targeted the women’s section of the hospital with three missiles. I was one of the first to go to help transfer the people... I don’t know why they targeted the ambulance. I have been working as a medic for 15 years... Even if I see my enemy I would treat them – this is our ethics and our job as medics.”

In answer to letters written by Amnesty International members to Israeli embassies demanding that Israel fulfil its obligations under the Geneva Conventions to protect hospitals and medical personnel, a spokesman of the Israeli embassy in New Zealand wrote that ambulances in Gaza were frequently used to carry military personnel. The Israeli military has not provided any explanation for why they attacked ambulances in this case. The targeting of ambulances and medical personnel is prohibited under international humanitarian law.

ABDEL-WAHHAB FAMILY

At approximately 1am on 2 August, an air strike destroyed the home of Fuad al-Sha’er, killing nine civilians, including four children.

Yasser Ahmed Younis Abdel-Wahhab, 41, who worked with the Civil Defence as a medical assistance officer in Rafah, told Amnesty International that, after the area experienced heavy shelling on Friday 1 August, he escaped from his home in the al-al-Jenina district in eastern Rafah with his wife and their children and moved to his brother-in-law’s home in the Bashed camp in the centre of Rafah. “I thought we would go for one night and it would be over by the morning and we could go back home. All the people in the area had left,” he said.

That night, he left his wife and children at his brother-in-law’s home and went to his own sister’s house, 50 metres down the street, because her husband was on ambulance duty.

“My wife had called and left me a message, so I returned her call at 1am, and we chatted for a while about normal things – whether the children had gone to bed, whether they had eaten. She said not to worry about them; they were all fine where they were. All of a sudden, a missile landed on their house and the mobile went dead. I tried calling her back but it did not connect.

“I went to the door and there I heard someone outside saying the shelling was on the al-Sha’er home. I tried not to believe this was happening where my children were. I ran and was the first to reach the house.”

The attack had completely destroyed the house. Neighbours came over to help move the rubble. “I became hysterical, so I was taken to the hospital,” he recounted. The next morning, he found out

that the attack had killed his wife Nehaya and four of his children: Heitham, 16, Ayman, 14, Lama, 9, and Mohammed, 2. He said:

“The bodies of my children were placed in a vegetable freezer. I cannot describe what it is like to see the bodies of my children in a vegetable freezer. I was able to bury my wife and children after two days. We were frightened to conduct the burial before that date.”

Two of Yasser Abdel-Wahhab’s daughters, Lina, 6, and Hala, 11, spent up to seven hours in the rubble before being rescued. Lina sustained shrapnel injuries. Hala suffered a fractured skull and was transferred to Hebron in the West Bank for treatment.

Yasser Abdel-Wahhab’s father-in-law and three brothers-in-law were also killed in the attack: Mohammed Issa Isma’il al-Sha’er, 58, Issa Sa’adi Issa al-Sha’er 45, Atef Sa’adi Issa al-Sha’er, 48, and Hani Sa’adi Issa al-Sha’er, 34.

It is possible that the Israeli military targeted the building where Abdel-Wahhab’s wife and children were killed because, according to a family member, the owner, Fuad al-Sha’er, may have been involved with Palestinian armed groups. Amnesty International was unable to verify this information or to clarify whether he was involved in hostilities at the time. In any case, according to Amnesty International’s research, he was not present at the time of the attack. Residents told Amnesty International that he had been away from his home for the majority of the war, but may have been expected to come back after the ceasefire.

If the Israeli military intended to attack Fuad al-Sha’er and they believed he was present at the time of the attack, the strike should have been cancelled given the number of civilians present. The attack is likely to have been disproportionate.

ABU TAHA FAMILY

At about 3pm on 2 August the Israeli army dropped an aerial bomb on the Abu Taha family home in the al-Shabora camp in Rafah, killing four family members and injuring others.

At approximately 3.05pm on Saturday 2 August, Israeli warplanes fired at least one missile at a house belonging to Mohammed Ayyad Abu Taha, located in the al-Shabora refugee camp in western Rafah. The attack partially destroyed the house and resulted in the death of Sa’adiya Rizq Abu Taha, 40, Rizq Isma’il Abu Taha, 1, Mohammed Mahmoud Rizq Abdel-Razzaq Abu Taha, 12, and Youssef Mahmoud Rizq Abdel-Razzaq Abu Taha, 10. Three other people who had fled their homes amid the heavy bombardment of the area sustained moderate injuries.

Rasha Hassan Hamada Abu Taha, 37, who lived in the al-Salam district, recounted that on 1 August she heard announcements being made by megaphone to residents instructing them to leave their homes and evacuate the area. “Missiles were falling everywhere. We were told to leave the area as it had become a closed military area,” she said. She and their three children moved to her in-laws’ house in al-Shabora refugee camp, which was considered one of the safest areas at the time.

Rasha Abu Taha and her family, including her husband, Mohammed Ayyad Abu Taha, who worked for the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), spent the night of 1 August with her sister-in-law in al-Salam district. She said:

“We spent the night there – an awful night. It was like they had stuck us in an area and just pounded us. The following day, Saturday, I found out on the news that our area had become a closed military area and, since I was pregnant, I was afraid to go home and have the road to the [Emirati] hospital cut off.”

“At 2.30pm while preparing lunch, my son Mohammed, 12, was taking pictures of his aunt Sa’adiya telling her ‘I want to send pictures to daddy of what you cooked for us’, and also had his picture taken with her. My other son, Youssef, 10, was sitting at his aunt’s feet and playing with her eight-month-old grandson, Rizq.

“The electricity had been cut off and I was sitting near the open door for air. We were all chatting, preparing lunch, taking pictures and suddenly the ceiling fell on us. I thought they were sending a warning missile... I started taking everyone out and managed to take out four of the children – Rizq’s brother Nabil, my daughter Zeinab, 6, Mohammed’s daughter Jana, and Dina, whose mother was injured, reassuring them that it was just a warning shot.”

Rasha Abu Taha described the immediate aftermath of the attack:

“The young men who had been on the second floor came down and told me to stand aside as I was pregnant and could not keep going back in to take people out – they knew what I would find. I stood there and they came out carrying my son Mohammed dead.

“I wanted to know what had happened to the rest of my children, whether they were dead or injured. My son Omar was in the basement when he heard the missile and came out running to me. I told him that Mohammed had died and asked him to go find out if Youssef was still alive. The ambulance driver kept telling me to get into the ambulance, but I refused. I stood there holding Omar, waiting for Youssef.”

Rasha Abu Taha’s niece Mona came out of the house bleeding while holding her son to her chest. Mona asked her to hold her son but Rasha was already holding her own son, Omar. Then, Rasha Abu Taha recounted, “Rizq’s [Mona] mother came out screaming: ‘Rizq was in my arms, he flew from my arms’.” She later found out that her older son, Youssef, who had been taking care of Rizq, had also been killed. She said:

“They brought Youssef out on a blanket without a head or arms, only the lower part of his body. When I saw that Youssef was dead, then I accepted to get into the ambulance and went to the Kuwaiti hospital.”

Rasha Abu Taha six-year-old daughter, Zeinab, sustained shrapnel injuries and was taken to the Gaza European hospital. She said:

“No one accompanied her, this little girl on her own. She stayed there for three days. The road was closed and I couldn’t ask for her to be brought to us as I feared something would happen to her on the roads. But she spoke to me on the phone.”

She explained that there were over 25 people in the house at the time of the attack and that around four of them were young men between 17 and 22 years old who had just come home for lunch.

Amnesty International has no information indicating that any of the men who were in the house were members of a Palestinian armed group. However, even if one or more of them was and were being targeted, the attack appears to have been disproportionate.

ZOROUB FAMILY

Shortly after 11pm on the night of 1 August an Israeli military aircraft dropped a bomb on the home of the Zoroub family in the Saudi residential complex in western Rafah. The attack killed 15 out of the 19 members in the house at the time, and injured the other four. All were civilians.

At around midnight between 1 August and 2 August, an Israeli attack struck the two-storey home of Rafat Oudeh Mohammed Zoroub in the Saudi residential complex in western Rafah. The attack was conducted without prior warning. The attack killed 15 civilians, including four women and 10 children, and wounded the four other people, all girls, who were in the building. According to two family members and a neighbour, none of the people in the building was affiliated with any Palestinian armed group. Of the 19 people in the building, Rafat, a 51-year-old unemployed construction worker, was the only adult male. The blast destroyed the family home and also severely damaged a neighbour's house, wounding six additional people, the witnesses said.

Rafaat's twin 17-year-old daughters, Sheima and Shirin Zoroub, survived. Sheima, who was nine months' pregnant, said she had come back to her parents' home "for safety", three or four days before the attack:

"At my own house, [an Israeli attack] targeted a neighbour 150 metres away from us and the whole family died. I was pregnant, and I thought that my parents' house was safer, and closer to the hospital. My aunts and grandmother came for the same reason – thinking it was safer. On that day, 1 August, my aunts had left our house just before 10am to go back to their homes, but my mum chased them down the street and told them that the truce had been violated and that they were safer at our house."

The attack killed Sheima's father, Rafat Zoroub, her mother, Sana Namat Zoroub, 40, and her siblings Amir, 15, Oday, 14, Shahed, 10, and Khaled, 9. It killed Sheima's maternal grandmother, Sabha, 66; her maternal aunt Ahlam, 38, and two of Ahlam's sons, Rami, 13, and Rawan, 10; another maternal aunt, Su'ad, 47, and four of Su'ad's sons, Hamada, 15, Mohammed, 12, Walid, 6, and Mutasim, 3.

The family members had been chatting or watching the news on television when Sheima and Shirin fell asleep at around 10pm, they said. They woke up alone "under the rubble" after the attack, in darkness, and tried to make their way out of the debris. Sheima recalled:

"I was calling my mum's name and no one responded. I couldn't see anything. It was dark and the electricity was off. I didn't know what to do and I was afraid. I was trying to lean on anything just to get a bit of balance but there weren't any walls. I fell down on my back and it really hurt. When I fell on the ground, I was sure that the baby was dead. [She ended up having a healthy delivery on 5 August.] My head was bleeding and my shoulder was seriously bruised. I had to get stiches and had burns and bruises. I didn't know that our house had been targeted – I thought it was a neighbour's house. We had no one from the resistance."

Sheima, Shirin and their cousin Ala, 17, helped one another crawl out of the rubble. Shirin told Amnesty International:

"We didn't know what to do. We were just running and kept falling because there was a lot of stone and glass. People were gathering in front of the school after the bombardment. Someone came and told us that the ambulances were coming so we went there. The ambulance came and there was a man in it with his one-month old son – the son was dead and the man was crying, we didn't know who he was. Then they brought in a body with no hands, arms or head. We started screaming and got out of the ambulance. It turned out that the body was one of our family members but we couldn't recognize him."

"Another ambulance came. We got in and we found Saja [a cousin, age 10] inside. They took us to the Emirati hospital. We had no one to be with us because everyone had died, so the hospital contacted someone else from our family and my uncle came and stayed the

night. My parents had lived in that house for only a month. And all my siblings are too young to be involved with any [armed groups].”

Nihad Jibara Abdullah Zoroub, 36, who lived across the street from the house that was attacked, independently corroborated the accounts of Sheima and Shirin Zoroub. Nihad recalled:

“After the truce was violated earlier that morning, the Israelis banned anyone from moving. We heard this on the radio. It was like a curfew. We didn’t expect [Rafat’s home] to be attacked. They have nothing to do with the resistance and no connections to anyone [political].

“Fifteen minutes before the attack, we were trying to go to sleep. The blast forced our door closed, we were locked in. We couldn’t get out of the house. We were banging on the door and screaming, until the neighbours came and forced it open for us. It took three days to find all the bodies. The decomposing body of Su’ad’s son was found on the roof of the neighbouring house.”

According to Nihad Zoroub and Shirin Zoroub, the blast from the attack also wounded at least six members of the Abu Mohsen family, one of whom was transferred to Turkey for medical treatment, and badly damaged their home, about 30 metres away from Rafat Zoroub’s home.

Amnesty International has been unable to identify any potential target or reason for the attack on the Zoroub family home. Even if there had been a military target nearby, the attack appears to have been disproportionate or otherwise indiscriminate.

NEIREB, GHOUL, MANYARAWI, ABU AYTA FAMILIES

At approximately 3am on the night between 1 and 2 August, the Israeli army dropped a bomb on four adjacent homes in al-Shabora camp killing eight civilians, including six children.

An Israeli attack in Rafah after 3am on 2 August killed eight members of three different families: six children, a woman and a man. The munition destroyed a group of four adjoining makeshift houses, where 26 people lived, according to witnesses who survived the attack. They said that none of the residents were members of armed groups.

The attack killed Arwa Mahmoud Neireb and her daughters Ala, 5, and Ibtisam, 12, and fatally wounded a third daughter, Doha, 15, who died of a head wound later that day. It also killed Ibrahim, 10, Ahmed, 7, and Anas, 5, three brothers from the Abu Ayta family next door to the Neireb home, as well as Ibrahim Manyarawi, a man in his 50s whose home was nearby.

Fathi Ibrahim Suleiman Abu Ayta, a 45-year-old English teacher, and his wife Abir, 40, survived the attack that killed three of their sons. Abir said that families in the area received automated calls on their mobiles and landlines on the afternoon of 1 August:

“They were saying, ‘The Israel Defense Forces is warning you not to go outside your houses or move from one place to another, unless you want to put yourself in danger – you’ve been warned’. So they tell us not to go out and then they destroy our house on top of us. The kids always wanted us to leave; they were afraid that the surrounding houses might be targeted and ours would be destroyed given that it was made of asbestos.”

Assam Mohammed Abed Rabbo Neireb was awoken at about 2.45am. The missile hit the wall between their house and that of Fathi Abu Ayta. Arwa Mahmoud Ahmed Neireb, 46, and her daughters, Ibtisam Bassam Mohammed Neireb, 12, Doha, 15, and Ula, 5, were all killed as a result

of the attack. Ibtisam's body was found in the rubble five days later and Doha had been thrown onto the roof of a concrete house.

Fathi Abu Ayta and his wife Abir said they were watching the news in their bedroom at about 3am on 2 August when the attack struck. They initially assumed that someone else's house had been targeted, not their own, because they had no connection to Palestinian armed groups. The attack "turned everything upside down. We were under the rubble. I didn't know what was actually targeted then. We were all injured and I couldn't see anything." Neighbours dug out the family, he said. A neighbour, Raja Fathi Suleiman al-Ghoul, 31, told Amnesty International that she "found Fathi and his wife in our house" after the blast.

Fathi only learned that his sons were dead after he arrived at the Kuwaiti hospital. The hospital, overwhelmed with casualties, lacked space for them. "Ahmed's body was shredded into pieces. He was in an ice-cream fridge for two days, then moved to the vegetable fridge," his father said.

Ahmed's mother, Abir, remembered what happened to her children when "the walls came down":

"Dina was in the kitchen making a sandwich – the whole kitchen fell on her. Lina was asleep in her room and suffocating after the attack. Ahmed was asleep; he was cut into two halves. We only had one half; the other was buried with the neighbours. We put him in a bag and buried him in the Tall al-Sultan cemetery. Ibrahim's head was cut open and his brain was coming out. Mohammed must have died by suffocating, as his body seemed fine except shrapnel wounds on his face and blood on his teeth."

The Abu Ayta family's neighbour, Bassam Mohammed Abed Rabbo Neireb, 46, an employee of the Palestinian authorities, said that 11 people were in his house at the time of the attack, including his sister, his wife and their eight children, four of them adults, four of them minors.

Bassam Neireb described intense Israeli bombardment earlier on 1 August, which "trapped the people who went back home to the eastern part" during a temporary ceasefire:

"They were shelling al-Balbisi street, so the people there had no choice: if they went forward, they died. So they had to stay in their homes, trapped, waiting to also be bombed. We heard on the radio and TV that the Israelis were saying that it was a curfew and no one should move – everything that moved would be a target."

The explosion killed his wife, Arwa, daughters Ala, 5, and Ibtisam, 12; it also propelled two other children into a neighbour's home, and another child onto the roof of another neighbour's home. The dead were so disfigured that the family "collected the body parts and buried them", and mistakenly assumed they had buried Ibtisam's remains, whose body was found four days later. Another daughter, Doha, "flew 10 metres away" in the blast. She was taken first to the Kuwaiti hospital, which lacked equipment needed to treat her head wound, and waited two hours before Israeli forces granted approval to the ICRC to transfer her to a hospital in Khan Yunis, where she died, her father said.

The survivors were subjected to appalling hospital conditions and a hasty funeral for their loved ones, Bassam Neireb said:

"The dead bodies were piled up in one small room and they had a fan in that room, that's it. My little girl was in an ice-cream fridge. Then a big truck came and took the dead bodies and put them in a big vegetable fridge somewhere else. Then they were buried. That happened without a funeral. No funeral, no rituals whatsoever. We didn't even have a chance to say goodbye. I am always thinking that I really miss them and I want to go to their graves and dig them out to see them."

Raja al-Ghoul, a neighbour, said the attack wounded her husband, Emad, 38, who managed a taxi office, and their five children, all under 10.

The four family homes were located in al-Shabora camp in western Rafah, which had not been affected on 1 August and was therefore considered safe, resulting in a number of families moving there that day. By the evening of 1 August, the firepower used in the east of Rafah had moved westwards and residents reported hearing a swath of continuous explosions.

Amnesty International has not been able to determine what may have been the intended target of this attack. Those killed and injured were civilians and there was no fighting in the vicinity at the time of the attack.

ABU SULEIMAN FAMILY

At approximately 3.30am, on 2 August an Israeli aircraft conducted an air strike on the home of the Abu Suleiman family killing nine, five of them children.

At around 3.30am on 2 August, an Israeli attack struck a two-storey residential building in Rafah without warning. The attack killed nine people: seven members of the Abu Suleiman family – five children and two women – and two neighbours, five witnesses told Amnesty International.

Rami Abu Suleiman, who lived in an apartment on the second floor, recalled the attack:

“We were watching the news and the kids were asleep, and around 12am they targeted a house nearby. I was following the news and people were calling to check on us. At 2am there was another strong explosion. I was comforting my wife and told her not to worry – there is no way we could be targeted. I was lying down on the bed and she was on the computer. At 3.30am, they targeted our house. I found myself and the mattress I was lying on outside the house with the rubble on top of me. I couldn’t believe that I was still breathing.”

The attack killed Rami Abu Suleiman’s wife, Heba, 34; their sons Mohammed, 11, and Ahmed, 2; and their twin three-year-old girls, Lama and Jana.

“I found my wife at the neighbours’. The rubble was all over her. She went through three walls. I held her head, but she couldn’t breathe. I asked her to say the final prayers, but she couldn’t. People came to help me get her out and they took her to the hospital, but she was dying. We found Mohammed’s body in pieces.

“Around 4.30am or 5am, there was daylight and we were able to see and friends and neighbours came to search for the bodies – they found Jana at one of the neighbours’. Another neighbour found Lama next to the washing machine. Ahmed’s body seemed fine but the back of his head was gone. There was no warning, no call – nothing. Some people were wanted by Israel in our neighbourhood – they got warnings to evacuate their homes – but we didn’t.”

Rami’s brother, Ramzi, 35, who also lived in the building, said the attack killed his wife, Feda, 29, and wounded their one-month-old daughter, Mayar, and four other children. Tuhfa Abu Suleiman, 65, the men’s mother, said that the blast blew Feda “17 metres from the blast site, and we found parts of her scattered on the neighbours’ rooftops.”

The attack killed Rana, the 10-year-old daughter of a third brother, Ra’ed, a baker, who said he “woke up in the street under a tree with rubble on top of me” after the explosion. He then returned

home and found that Rana had been killed, and that his other children were “injured and full of blood”:

“My son Ahmed was alive; his brother brought him out of the rubble. My one-year-old [son] was lucky because the bedroom furniture fell on top of him at an angle that protected him. I heard my daughter screaming but I was injured and couldn’t help her. [Surgeons at Nasser hospital operated on Ra’ed the following day due to a chest wound and a dislocated left shoulder.]

“The neighbours helped us. Then the ICRC got co-ordination and took my son Mohammed and daughter Maha to Nasser hospital [in Khan Yunis]. Maha had fractures all over.”

The attack killed two neighbours from different families: Abir Abu Arab, in her 40s, and Miryam Abu Jazar, an elderly woman who had come to stay with a relative in the area after having left her house in eastern Rafah for safety, survivors said.

All the witnesses who spoke to Amnesty International said that no one in the building at the time of the attack was a member of an armed group. The Israeli army’s intended target in this attack remains unclear. Even if there had been a military target nearby, the attack appears to have been disproportionate.

INTERNATIONAL LAW

Three bodies of international law are applicable to the situation in Gaza and Israel during the period covered in this report: international humanitarian law (including the law of occupation), international human rights law and international criminal law.

International humanitarian law is a body of rules and principles whose central purpose is to limit, as much as possible, human suffering in times of armed conflict. It sets out standards of humane conduct and limits the means and methods of conducting military operations. Its focus is the protection of those not participating in hostilities, particularly civilians, as well as combatants who are sick, wounded or captured.

States are also bound by their obligations under **international human rights law**, which applies during armed conflict and in peacetime. It includes treaties guaranteeing civil and political rights, and economic, social, and cultural rights. A fundamental principle of international human rights law is that victims of serious human rights violations have the right to remedies, 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.

INTERNATIONAL HUMANITARIAN LAW

The rules on the conduct of hostilities, which are most relevant to this report, are set out in the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I, adopted in 1977). Israel is a party to the four Geneva Conventions of 12 August 1949, but not to Protocol I or Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II, also adopted in 1977). Nonetheless, the rules cited below reflect customary international humanitarian law and are legally binding on all parties to an armed conflict “as general practice accepted as law.”¹¹⁹

Israel is also bound by relevant rules of occupation law, including provisions of the Fourth Geneva Convention and of the Hague Convention (IV) respecting the Laws and Customs of War on Land and its annexed Regulations of 1907.¹²⁰

¹¹⁹ Article 38(1)(b) of the Statute of the International Court of Justice (ICJ).

¹²⁰ See Amnesty International, “Why does Amnesty International still consider Israel the occupying power in the Gaza Strip, and what are Israel’s obligations as the occupying power?” in *Questions & Answers: Israel/Gaza conflict, July 2014*, 25 July 2014, https://www.amnesty.org.uk/sites/default/files/gaza_qa_july_2014.pdf (last accessed 12 July 2015). 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 interpreting this definition with

The State of Palestine has acceded to the four Geneva Conventions of 12 August 1949, Protocols I and II and the Hague Convention (IV) and its annexed Regulations.

PROHIBITION ON DIRECT ATTACKS ON CIVILIANS AND CIVILIAN OBJECTS – THE PRINCIPLE OF DISTINCTION

A fundamental rule of international humanitarian law is that parties to an armed conflict must at all times “distinguish between civilians and combatants”, especially in that “attacks may only be directed against combatants” and “must not be directed against civilians.”¹²¹ A similar rule requires parties to distinguish between “civilian objects” and “military objectives”. These rules are part of the fundamental principle of “distinction”.¹²²

“Civilian objects are all objects that are not military objectives.”¹²³ And military objectives are “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 neutralisation, in the circumstances ruling at the time, offers a definite military advantage.”¹²⁴ Military advantage may not be interpreted so broadly as to render the rule ineffective. Using this provision to justify attacks aimed at harming the economy of a state or demoralizing the civilian population in order to weaken the ability to fight would distort the legal meaning of military advantage, undermine fundamental principles of international humanitarian law, and pose a severe threat to civilians.

Objects (or locations) that do not meet these criteria are civilian objects. In cases where it is unclear whether a specific object such as a home or residential building, place of worship, school, media office, medical facility, or government building is being used for military purposes, “it shall be presumed not to be so used”.¹²⁵

respect to particular situations, the notion of “effective control” over the territory in question is central. Legal scholars continue to debate the meaning of “effective control”. It generally – but not necessarily always – entails the permanent presence of the occupying power’s military forces inside the territory. However, in cases where the occupying power has withdrawn its forces from all or parts of the occupied territory, but has maintained key elements of an occupying power’s authority, this retention of authority can amount to effective control. In such cases occupation law, or at least the provisions relevant to the powers it continues to exercise, could continue to apply. (See T Ferraro, “Determining the beginning and end of an occupation under international humanitarian law”, *International Review of the Red Cross*, Volume 94, Number 885, Spring 2012, pp. 157-158.)

¹²¹ ICRC Customary IHL Study, Rule 1; see also Additional Protocol I to the Geneva Conventions (Protocol I), Article 48, and Additional Protocol II to the Geneva Conventions (Protocol II), Article 12(2).

¹²² In the context of the conflict in Gaza and Israel and in this report, Amnesty International uses the term “civilian” to describe people who were not taking direct part in the hostilities. In case of doubt, individuals should be presumed to be civilians.

¹²³ ICRC Customary IHL Study, Rule 9.

¹²⁴ ICRC Customary IHL Study, Rule 8.

¹²⁵ Protocol I, Article 52(3). 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.”

According to the Rome Statute of the International Criminal Court, intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities and intentionally directing attacks against civilian objects constitute war crimes.¹²⁶

In addition, as regards the destruction of entire homes, orchards, and businesses the 1949 Fourth Geneva Convention regulates Israel's actions as the occupying power in the Gaza Strip. Article 53 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 cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.”

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 thus a war crime.

In addition to benefiting from the protection accorded civilians and civilian objects, certain persons and objects are afforded special protection under international humanitarian law. Medical personnel and medical transports must be respected and protected in all circumstances.¹²⁷ Humanitarian relief personnel and humanitarian relief objects must be respected and protected.¹²⁸ And “special care must be taken in military operations to avoid damage to buildings dedicated to religion, art, science, education or charitable purposes and historic monuments unless they are military objectives.”¹²⁹

PROHIBITION ON INDISCRIMINATE OR DISPROPORTIONATE ATTACKS

The corollary of the rule of distinction is that “indiscriminate attacks are prohibited”.¹³⁰ Indiscriminate attacks are those that are of a nature to strike military objectives and civilians or civilian objects without distinction, either because the attack is not directed at a specific military objective, or because it employs a method or means of combat that cannot be directed at a specific military objective or has effects that cannot be limited as required by international humanitarian law.¹³¹

International humanitarian law also prohibits disproportionate attacks, which are those “which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”¹³² Intentionally launching an indiscriminate attack resulting in death or injury to civilians, or a disproportionate attack (that is, knowing that the attack will cause excessive incidental civilian loss,

¹²⁶ Rome Statute of the International Criminal Court, Article 8(2)(b)(i) and(ii).

¹²⁷ ICRC Customary IHL Study, Rules 26 and 29.

¹²⁸ ICRC Customary IHL Study, Rules 31 and 32.

¹²⁹ ICRC Customary IHL Study, Rule 38.

¹³⁰ ICRC Customary IHL Study, Rule 11; Protocol I, Article 51(4).

¹³¹ ICRC Customary IHL Study, Rule 12; Protocol I, Article 51(4)(a).

¹³² ICRC Customary IHL Study, Rule 14; Protocol I, Articles 51(5)(b) and 57.

injury or damage) constitutes a war crime.¹³³

PRECAUTIONS IN ATTACK

The protection of the civilian population and civilian objects is further underpinned by the requirement that all parties to a conflict take precautions in attack. In the conduct of military operations, then, “constant care must be taken to spare the civilian population, civilians and civilian objects”; “all feasible precautions” must be taken to avoid and minimize incidental loss of civilian life, injury to civilians and damage to civilian objects.¹³⁴ The parties must choose means and methods of warfare with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.¹³⁵ Everything feasible must be done to verify that targets are military objectives, to assess the proportionality of attacks, and to halt attacks if it becomes apparent they are wrongly directed or disproportionate.¹³⁶ Where circumstances permit, parties must give effective advance warning of attacks which may affect the civilian population.¹³⁷

Parties must choose appropriate means and methods of attack when military targets are located within residential areas. This requirement rules out the use of certain types of weapons and tactics. The use of means of combat that cannot be directed at a specific military objective – such as using imprecise explosive weapons on targets located in densely populated civilian areas – may result in indiscriminate attacks and is prohibited. The use of artillery and mortars in the vicinity of densely populated civilian neighbourhoods of Rafah and other parts of Gaza – even if intended to target military objectives – violates this prohibition. Choosing methods of attack that do not minimize the risk to civilians – for example, attacking objectives at times when many civilians are most likely to be present – also violates international humanitarian law.

PRECAUTIONS IN DEFENCE

Warring parties have obligations to take precautions to protect civilians and civilian objects under their control against the effects of attacks by the adversary. As with precautions in attack, these rules are particularly important when fighting is taking place in areas with large numbers of civilians.

Each party to the conflict must, to the extent feasible, avoid locating military objectives within or near densely populated areas.¹³⁸ The authoritative commentary of the International Committee of the Red Cross (ICRC) 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.”

¹³³ ICRC Customary IHL Study, Rule 156, pp. 599-601.

¹³⁴ ICRC Customary IHL Study, Rule 15. See also Protocol II, Article 13(1).

¹³⁵ ICRC Customary IHL Study, Rule 17.

¹³⁶ ICRC Customary IHL Study, Rules 16-19.

¹³⁷ ICRC Customary IHL Study, Rule 20.

¹³⁸ ICRC Customary IHL Study, Rule 23; see also Protocol I, Article 58(b).

Furthermore, Article 50(3) of Protocol I states that “The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.”¹³⁹

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.”

In other words, the fact that Palestinian fighters may be located within civilian areas does not in any way negate Israel’s obligations with respect to civilians, including the principle of distinction, the prohibition on indiscriminate or disproportionate attacks, and the precautions in attack detailed above.

COLLECTIVE PUNISHMENT

Since Israel imposed its military blockade on the Gaza Strip in June 2007, heightening its policies of “closure” against the Strip, which date back to the early 1990s, Amnesty International and numerous other organizations have argued that the blockade amounts to collective punishment of Gaza’s entire population.¹⁴⁰

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.”¹⁴¹

Although the Israeli authorities have eased some aspects of the blockade since mid-2010, for example by removing restrictions on certain categories of imports, many aspects of the blockade and the closure regime continue, and have impeded reconstruction efforts. The combination of restrictions continues to have a severe impact on all aspects of life in Gaza. Israeli policies towards the Gaza Strip continue to violate the prohibition on collective punishment.

Aspects of Israel’s military operations in Rafah following the capture of Israeli soldier Lieutenant Hadar Goldin may in themselves have amounted to collective punishment of the civilian population of Gaza.

¹³⁹ ICRC, *Commentary on the Additional Protocols of 8 June 1977*, Yves Sandoz, Christophe Swinarski, and Bruno Zimmermann, eds, 1987, para. 1922.

¹⁴⁰ See, for example, Amnesty International, *Israel/Occupied Palestinian Territories: Gaza blockade - collective punishment* (Index, MDE 15/021/2008), 4 July 2008, <https://www.amnesty.org/en/documents/MDE15/021/2008/en>; ICRC, “Gaza closure: not another year!”, 14 June 2010, <http://www.icrc.org/eng/resources/documents/update/palestine-update-140610.htm> (last accessed 12 July 2015).

¹⁴¹ ICRC, *Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, p. 225.

INVESTIGATION

Under international humanitarian law, “states must investigate war crimes allegedly committed by their nationals or armed forces, or on their territory, and, if appropriate prosecute the suspects. They must also investigate other war crimes over which they have jurisdiction and, if appropriate, prosecute the suspects.”¹⁴² The duty to investigate extends beyond war crimes to other violations of international humanitarian law. This derives from the obligations of states to suppress all breaches of international humanitarian law.¹⁴³

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 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 Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); 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.

Although Israel has argued that its obligations under the international human rights treaties it has ratified are not applicable in the Occupied Palestinian Territories, this position has been rejected by all the UN bodies monitoring adherence to these treaties and by the International Court of Justice.¹⁴⁵ Specific treaty bodies have also clarified that the treaty provisions apply extraterritorially in general; for example, the UN Human Rights Committee has stated, with respect to the ICCPR, that “a State party must respect and ensure the rights laid down in the Covenant to anyone within the power or effective control of that State

¹⁴² ICRC, Customary IHL, Rule 158.

¹⁴³ Geneva Convention IV, Article 146; Protocol I, Article 86(1). For a discussion of the duty to investigate all violations of international humanitarian law see Amichai Cohen and Yuval Shany, “Beyond the Grave Breaches Regime: the Duty to Investigate Alleged Violations of International Law Governing Armed Conflicts”, *Yearbook of International Humanitarian Law*, Volume 14, December 2011, pp. 37-84.

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”, ICJ Advisory Opinion, 9 July 2004. See also Human Rights Committee, General Comment 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 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.”

¹⁴⁵ See, inter alia: Concluding Observations of the Human Rights Committee: Israel, 3 September 2010, CCPR/C/ISR/CO/3, para. 5; Concluding Observations of the Committee against Torture: Israel, 23 June 2009, CAT/C/ISR/4, para. 11; Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel, 16 December 2011, E/C.12/ISR/CO/3, para. 8; ICJ Advisory Opinion, 9 July 2004, paras 111-113.

Party, even if not situated within the territory of the State Party.”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.

Article 6(1) of the ICCPR states that “Every human being has the inherent right to life... No one shall be arbitrarily deprived of his life.” This right is a peremptory norm of international law which cannot be suspended or otherwise derogated, including in times of war.¹⁴⁷ During an armed conflict, the question of whether a death occurring in hostilities is an arbitrary deprivation of life is determined by international humanitarian law, particularly the rules on the conduct of hostilities. Deliberately killing a civilian who is not directly participating in hostilities is an arbitrary deprivation of life.

Other human rights obligations relevant to Israel military operations in Rafah include the obligations to respect, protect and promote: 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, schools, and water infrastructure, are violations for which state parties can be held responsible.

With respect to the right to housing, Israel’s destruction of homes and residential buildings in Rafah and elsewhere in Gaza during the conflict appears to 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.” The Committee includes among such evictions those resulting from “international armed conflicts, internal strife and communal or ethnic violence.”¹⁴⁹

INTERNATIONAL CRIMINAL LAW

Individuals, including civilians and military personnel, can be held criminally responsible for certain violations of international human rights law and international humanitarian law. International law imposes the obligation to investigate and prosecute alleged perpetrators of crimes under international law and serious violations and abuses of human rights.¹⁵⁰ Israel has the obligation

¹⁴⁶ Human Rights Committee, General Comment 31, para. 10.

¹⁴⁷ See article 4(2) ICCPR and, inter alia, Human Rights Committee, General Comment 29 on States of Emergency, CCPR/C/21/Rev.1/Add.11, paras 7 and 11; see also Human Rights Committee, General Comment 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, para. 11.

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), paras 4 and 7.

¹⁵⁰ International humanitarian law contains a duty to prosecute war crimes (ICRC Customary IHL Study, Rules 157 and

under international law to ensure that, where sufficient evidence exists, individuals suspected of committing crimes under international law are prosecuted in fair trials without recourse to the death penalty. Israel must also ensure that effective remedies are put in place and that victims are provided with fair and just reparation including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.¹⁵¹

Under the principle of universal jurisdiction, all states have an obligation to investigate and, where enough admissible evidence is gathered, prosecute crimes under international law, including genocide, crimes against humanity, war crimes, torture, extrajudicial executions and enforced disappearances.¹⁵²

According to Article 7 of 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 either during a time of peace or during an armed conflict.

Military commanders and civilian superiors can be held responsible for the acts of their subordinates. Article 86(2) of 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 [1949 Geneva] 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.”

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.

158). See also the International Covenant on Civil and Political Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and Amnesty International, *United Kingdom: The Pinochet case - universal jurisdiction and absence of immunity for crimes against humanity* (Index: EUR 45/01/99), January 1999.

¹⁵¹ United Nations 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, adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005.

¹⁵² See for example ICJ, *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, Judgment, ICJ Reports 2002, p. 3, where the majority of the court confirmed the right of all states to exercise universal jurisdiction. Amnesty International, *Universal jurisdiction: The duty of states to enact and implement legislation* (Index: IOR 53/003/2001), September 2001.

INTERNAL INVESTIGATIONS, NO ACCOUNTABILITY

States have a duty to conduct genuine, effective, and prompt investigations into allegations of serious violations of international humanitarian law and international human rights law. When sufficient admissible evidence is uncovered, states also have an obligation to prosecute individuals, including commanders and civilian superiors suspected of committing or ordering crimes under international law. Finally, states have obligations to ensure that victims have effective access to justice, and to provide them with full and prompt reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. To date, the Israeli authorities have failed to fulfil any of these obligations with respect to any of the crimes and serious violations of international law documented in this report.

Meanwhile, the Prosecutor of the International Criminal Court (ICC) announced the opening of a preliminary examination into the situation in Palestine on 16 January 2015,¹⁵³ following a declaration signed by Palestinian President Mahmoud Abbas, accepting the ICC's jurisdiction over crimes committed "in the occupied Palestinian territory, including East Jerusalem, since June 13, 2014".¹⁵⁴ During an ICC preliminary examination, the Prosecutor considers information from various sources in order to determine whether to open a full investigation into crimes over which the Court has jurisdiction committed in the territory in question. Before proceeding with a full investigation, the ICC Prosecutor must be satisfied that the alleged crimes are of a certain gravity and that national authorities are failing to conduct genuine investigations and prosecutions.

ISRAEL'S POSITIONS AND INVESTIGATIONS ON THE HOSTILITIES

Israel's positions on Operation Protective Edge are detailed most fully in a government report presented to Prime Minister Benjamin Netanyahu on 14 June 2015,¹⁵⁵ although several sections had been published online beforehand. The report, prepared by officials from the Ministry of Justice, Ministry of Foreign Affairs, Military Advocate General Corps, and other government and military

¹⁵³ International Criminal Court, "The Prosecutor of the International Criminal Court, Fatou Bensouda, opens a preliminary examination of the situation in Palestine", 16 January 2015, http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr1083.aspx (last accessed 17 July 2015) (ICC, "The Prosecutor of the International Criminal Court, Fatou Bensouda, opens a preliminary examination of the situation in Palestine").

¹⁵⁴ "Declaration Accepting the Jurisdiction of the International Criminal Court", 31 December 2014, http://www.icc-cpi.int/iccdocs/PIDS/press/Palestine_A_12-3.pdf (last accessed 17 July 2015).

¹⁵⁵ State of Israel, *The 2014 Gaza Conflict: Factual and Legal Aspects*, <http://mfa.gov.il/ProtectiveEdge/Pages/default.aspx> (last accessed 17 July 2015) (State of Israel, *The 2014 Gaza Conflict*); Israel Ministry of Foreign Affairs, "Cabinet Secretary Mandelblit presents PM Netanyahu with Israel's Position on Operation Protective Edge", 14 June 2015, <http://mfa.gov.il/MFA/PressRoom/2015/Pages/Cabinet-Secretary-Mandelblit-presents-PM-Netanyahu-with-Israel's-Position-on-Operation-Protective-Edge-14-Jun-2015.aspx> (last accessed 17 July 2015).

bodies, argues that Israel's military operations during the 2014 conflict adhered to international law. Among other points, the report claims that the military's operational orders during the hostilities required compliance with international humanitarian law "at all times", including the principles of distinction, proportionality, and precautions in attack, and that Israeli forces did not intentionally target civilians or civilian objects.¹⁵⁶ It also makes several claims about Israeli forces' use of high-explosive artillery, including 155mm diameter artillery shells and 120mm diameter mortars, during the hostilities. For example, the report states that military directives limited the use of high-explosive artillery in populated areas, requiring specific "safety margins" (distances from civilians) and only permitting the firing of such munitions near or into populated areas "on an exceptional basis, in certain exigent circumstances that created an imperative military necessity for artillery fire support". It claims that in instances when high-explosive artillery was used in urban areas, it was done "in a restrained and calculated fashion" in areas "known to be largely evacuated".¹⁵⁷ As regards Israeli forces' use of artillery in Rafah after the Hannibal Directive was invoked, particularly on 1 August 2014, the findings of Amnesty International and Forensic Architecture detailed in this report stand in stark contrast to these claims.

The information in Israel's official report on the conflict on the actions of Israeli forces in Rafah on 1 August 2014 is quite limited. According to the report, after Lieutenant Hadar Goldin was discovered to be missing, the Israeli military warned Rafah residents through phone calls and text messages not to leave their homes, saying that "Whoever leaves his home risks injury and endangers his life".¹⁵⁸ Regarding the Hannibal Directive, the report states that it "does *not* grant permission to violate the Law of Armed Conflict, including the rules relating to distinction and proportionality", that "the use of unrestrained force is not permitted, even in the direst of circumstances", and that it explicitly prohibits actions intended to kill the kidnapped person.¹⁵⁹

The Israeli government report also includes a section on Israel's investigations of alleged violations of international humanitarian law during the hostilities. As detailed below, while the Israeli military is examining numerous cases, one year after a conflict in which some 1,462 Palestinian civilians in the Gaza Strip were killed, including 551 children, only three Israeli soldiers have been indicted for one incident of looting.¹⁶⁰ As with its investigations into violations in previous conflicts, Israel's military investigations into Operation Protective Edge cannot be considered independent or impartial, and have been completely ineffective to date in securing a modicum of justice for victims.

ISRAEL'S MILITARY INVESTIGATIONS

The Israeli military established a General Staff Mechanism for Fact-Finding Assessments (FFAM) during the 2014 conflict to examine what it describes as "exceptional incidents" of alleged Israeli violations during the hostilities. The purpose of these investigations was said to be threefold: to reach decisions on whether to open a criminal investigation, for a "lessons-learned process", and for

¹⁵⁶ State of Israel, *The 2014 Gaza Conflict*, pp. xv-xvii, 142, 155-158, 185, 215-217.

¹⁵⁷ State of Israel, *The 2014 Gaza Conflict*, pp. xvii, 188, 190-194.

¹⁵⁸ State of Israel, *The 2014 Gaza Conflict*, p. 171.

¹⁵⁹ State of Israel, *The 2014 Gaza Conflict*, pp. 186-187, emphasis in the original.

¹⁶⁰ Gili Cohen, "Israeli army indicts three soldiers for looting during Gaza war", *Haaretz*, 26 April 2015, <http://www.haaretz.com/news/diplomacy-defense/premium-1.653605> (last accessed 17 July 2015).

“the issuance of operational recommendations that will assist in preventing exceptional incidents in the future”.¹⁶¹ The FFAM, headed by a Major General, collects information on these incidents, primarily from military sources and personnel, which is presented to Israel’s Military Advocate General (MAG), who then decides whether or not to open a criminal investigation into each incident. Since the conflict, the MAG has continued to refer incidents on which it has received complaints to the FFAM. Criminal investigations, when opened, are conducted by the Military Police Criminal Investigations Division, which presents information to the MAG, who decides whether or not to prosecute and on what charges.

Amnesty International has long-standing concerns that these investigations are not genuine, effective, independent, or impartial. All allegations of violations, including war crimes, are investigated within the military system, and the MAG remains the key decision maker at all stages of the process, despite the fact that he also had ultimate responsibility for overseeing the legal advice provided to Israeli forces operating during the conflict. Leading Israeli human rights organizations, among others, have heavily criticized this as a fundamental conflict of interest inherent in Israel’s system of military investigations.¹⁶²

To date, the MAG has issued four public updates on the military investigations into incidents during the 2014 conflict. According to the most recent update, issued on 11 June 2015,¹⁶³ the MAG had ordered a criminal investigation in 15 cases where the facts indicated grounds for a reasonable suspicion of criminal misconduct, although two of these have been closed without any criminal or disciplinary proceedings. Some 190 other incidents had been referred to the FFAM, which had finished examining 105 of those cases. Of those, the MAG had ordered criminal investigations into seven incidents, closed 19 cases after concluding that there were no grounds to suspect any criminal acts by Israeli forces, and had yet to make a decision on the remainder.

The MAG has referred a handful of incidents involving the misuse of high-explosive artillery for examination by the FFAM, including at least one from Rafah on 1 August.¹⁶⁴ The FFAM has forwarded its findings on each of these cases to the MAG for a decision on whether or not to order a criminal investigation. According to Israel’s official report on the conflict, the MAG has ordered criminal investigations into two incidents involving high-explosive artillery, has closed the case

¹⁶¹ IDF Military Advocate General, “Operation Protective Edge: Examinations and Investigation”, 10 September 2014, www.law.idf.il/261-6858-en/Patzar.aspx?pos=1 (last accessed 17 July 2015). See also: Amos Harel, “Israeli army’s Gaza inquiry meant to head off calls for war crimes probe”, *Haaretz*, 14 August 2014, www.haaretz.com/news/diplomacy-defense/premium-1.610475 (last accessed 17 July 2015).

¹⁶² B’Tselem and Yesh Din, “Israeli human rights organizations B’Tselem and Yesh Din: Israel is unwilling to investigate harm caused to Palestinians”, 4 September 2014, http://www.btselem.org/press_releases/20140905_failure_to_investigate (last accessed 17 July 2015) (B’Tselem and Yesh Din, “Israel is unwilling to investigate”).

¹⁶³ IDF Military Advocate General, “Decisions of the IDF MAG Regarding Exceptional Incidents that Allegedly Occurred During Operation ‘Protective Edge’ – Update No. 4”, 11 June 2015, <http://www.law.idf.il/163-7353-en/Patzar.aspx> (last accessed 17 July 2015) (MAG, Update 4).

¹⁶⁴ State of Israel, *The 2014 Gaza Conflict*, p. 194.

regarding another, and has yet to make a decision on the rest.¹⁶⁵ The report does not clarify the locations of the two incidents where criminal investigations into the firing of high-explosive artillery have been opened, but any such investigation relating to actions by Israeli forces in Rafah on 1 August would have likely been reported in the media.

The only criminal investigation relating to events in Rafah in the period covered in this report known to Amnesty International so far concerns the abuse of two Rafah residents after they were detained by Israeli forces on 1 August.¹⁶⁶ The MAG Corps received a complaint that two residents of Rafah were struck by Israeli soldiers without provocation while they were handcuffed and blindfolded; a criminal investigation was opened without a prior fact-finding assessment. Similar decisions have been taken in a limited number of other cases of incidents of looting or abuse of detainees elsewhere in the Gaza Strip during the hostilities, since such conduct is manifestly unlawful. However, even in such relatively straightforward cases, there is no guarantee that indictments will be filed; indeed, two criminal investigations into incidents of looting were closed without charges.¹⁶⁷ More significantly, investigations in cases of abuse or looting are no substitute for criminal investigations into disproportionate or otherwise indiscriminate attacks which killed and injured civilians or destroyed civilian property, such as the cases documented in this report.

The cases that have been closed by the Israeli military – either without any criminal investigation, based solely on the findings of the FFAM, or where the criminal investigation concluded that Israeli forces had complied with international humanitarian law – include cases investigated by Amnesty International where there are serious concerns that Israeli forces violated international humanitarian law. For example, in March 2015,¹⁶⁸ the MAG announced decisions to close criminal investigations into two different attacks on family homes, both without a warning: one on the al-Bakri home in al-Shati refugee camp on 4 August 2014, killing four civilians and wounding over 20, and another on the Abu Dahrouj home in al-Zuwayda on 23 August 2014, killing four civilians and injuring others.¹⁶⁹ Amnesty International also investigated the missile strike which killed four boys from the al-Bakr family who were playing on the Gaza City beach on 16 July 2014; the most recent MAG update announced that the criminal investigation in that case had also been closed without any charges or disciplinary measures against those involved.¹⁷⁰ The attack took place next to a hotel where many foreign journalists were based, video footage quickly emerged in which individuals targeted were clearly visible as children, and human rights organizations submitted testimonies from eyewitnesses to the Israeli military investigators. Yet no journalists who had witnessed and reported

¹⁶⁵ State of Israel, *The 2014 Gaza Conflict*, p. 194.

¹⁶⁶ IDF Military Advocate General, “Decisions of the IDF Military Advocate General regarding Exceptional Incidents during Operation ‘Protective Edge’ – Update No. 3”, 22 March 2015, <http://www.law.idf.il/163-7183-en/Patzar.aspx> (last accessed 17 July 2015) (MAG, Update 3).

¹⁶⁷ MAG, Update 3.

¹⁶⁸ MAG, Update 3.

¹⁶⁹ See: Amnesty International, *Families under the rubble: Israeli attacks on inhabited homes* (Index: MDE 15/032/2014), 5 November 2014, <https://www.amnesty.org/en/documents/mde15/032/2014/en/> (last accessed 17 July 2015), pp. 29-31, 34-36.

¹⁷⁰ MAG, Update 4.

on the event were interviewed by the military investigators, and the MAG decision claimed that those killed could not have been visible as children to Israeli aerial surveillance.¹⁷¹

In June 2015, the MAG announced a criminal investigation into allegations that Israeli forces had intentionally fired tank shells at a medical clinic in Shuja'iyyeh on 23 July 2014,¹⁷² and recently a senior officer in the Armoured Corps was questioned by military police investigators in relation to the case.¹⁷³ However, an audio recording of this officer telling his troops to fire towards the clinic in honour of Captain Dima Levitas, who had been killed in Shuja'iyyeh the day before, was released by Israeli media on the day after the incident.¹⁷⁴ It is unclear why the Israeli military only opened a criminal investigation almost a year later, since an intentional attack on a medical clinic without a warning clearly violates international humanitarian law, and could amount to a war crime. According to media reports, a handful of other senior officers are being questioned in relation to specific incidents during the hostilities, though it is unclear which ones.¹⁷⁵ However, there is no evidence to suggest that the military investigations overseen by the MAG are examining policy decisions or military orders that allowed for the extensive use of artillery in residential areas in certain situations, the widespread targeting of inhabited family homes, or other policies that were likely unlawful and responsible for many civilian deaths.

While the MAG has not stated publicly how many complaints it has received about incidents during the 2014 conflict, significantly more complaints have been filed by human rights organizations than have been referred to the FFAM or for a criminal investigation, and in many cases the organizations have yet to receive a response. For example, the Palestinian Centre for Human Rights (PCHR), one of several NGOs submitting complaints, recently reported that it had filed complaints with the MAG on 244 incidents from the 2014 conflict, and received only 18 responses, with criminal investigations opened in less than half of those.¹⁷⁶

¹⁷¹ Al Mezan and Adalah, "Israeli military closes investigation into killing of four children on Gaza beach", 15 June 2015, <http://www.adalah.org/en/content/view/8581> (last accessed 17 July 2015); A/HRC/29/CRP.4, *Report of the detailed findings of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1*, 22 June 2015, paras 630-633, <http://www.ohchr.org/EN/HRBodies/HRC/ColGazaConflict/Pages/ReportColGaza.aspx#report> (last accessed 17 July 2015) (A/HRC/29/CRP.4, *Report of the detailed findings of the independent commission of inquiry*).

¹⁷² MAG, Update 4.

¹⁷³ Yoav Zitun, "First senior officer to be investigated by military police over Protective Edge conduct", Ynet, 12 July 2015, <http://www.ynetnews.com/articles/0,7340,L-4678648,00.html> (last accessed 17 July 2015).

¹⁷⁴ NRG, "In the heart of Shuja'iyyeh: Commander mourns loss of company commander killed" (in Hebrew), 24 July 2015, <http://www.nrg.co.il/online/1/ART2/600/603.html> (last accessed 17 July 2015).

¹⁷⁵ Avi Lewis, "Army probing at least five senior officers over Gaza war", *The Times of Israel*, 13 July 2015, <http://www.timesofisrael.com/army-probing-at-least-five-senior-officers-over-gaza-war/> (last accessed 17 July 2015).

¹⁷⁶ PCHR, "Israeli MAG Again Orders Closing Three Claims Relating to War Crimes", 15 June 2015, http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=11106:israeli-mag-again-orders-closing-three-claims-relating-to-war-crimes&catid=145:in-focus (last accessed 17 July 2015).

In addition, the failure of Israel's military investigations to secure justice for Palestinian victims of Israeli violations, including war crimes, during previous Israel/Gaza conflicts, such as Operation Cast Lead in 2008-2009 and Operation Pillar of Defense in November 2012, has discouraged some Palestinian victims from the 2014 conflict from filing complaints with the Israeli military at all. Their concerns were echoed by leading Israeli human rights organization B'Tselem, which decided it did "not wish to play a role in the so-called investigation apparatus" by submitting complaints to the MAG on violations during the 2014 conflict, in part because its complaints following the two previous conflicts had not led to any measure of accountability.¹⁷⁷ That said, when information on specific actions of Israeli forces that may have violated international humanitarian law is publicly available, an investigation should be opened even if no complaint has been received. While the MAG Corps has repeatedly stated that it "actively works to identify incidents warranting examination or investigation", the information it has released so far indicates that few investigations have been opened pro-actively.¹⁷⁸ Recent media reports¹⁷⁹ indicate that investigations have been launched into a small number of incidents relating to testimonies published in a report by Israeli NGO Breaking the Silence,¹⁸⁰ but it is unclear which incidents are being investigated, or whether the military authorities responded to information presented to them by the same NGO prior to publication of its report.

The limited number of incidents being examined by the Israeli military clearly do not cover all the potential violations of international humanitarian law by Israeli forces during the 50-day conflict, each of which should be independently and impartially investigated, nor do they address the crucial questions of responsibility at the command and policy level.

The MAG directed the FFAM to examine the events surrounding the capture of Lieutenant Hadar Goldin in Rafah on 1 August 2014, including actions allegedly taken by Israeli forces pursuant to the Hannibal Directive. According to Israel's official report on the conflict, the FFAM provided its findings and collated materials to the MAG for a decision on whether to open a criminal investigation.¹⁸¹ However, the MAG has yet to announce a decision. Meanwhile, senior military commanders, as well as Israeli Minister of Defense Moshe Ya'alon, have publicly stated that no criminal investigation should be opened, creating a climate where it will be even more difficult for the MAG to take a truly independent decision. In January 2015, the Israeli Minister of Defense described the events of 1 August 2014 in Rafah as "an operational incident... not something that should be investigated according to criminal law. It should be investigated by the military command," while then Chief of Staff Benny Gantz referred to Colonel Ofer Winter and other Givati Brigade commanders as "the best there are".¹⁸² Head of Southern Command, Major General Sami

¹⁷⁷ B'Tselem and Yesh Din, "Israel is unwilling to investigate".

¹⁷⁸ MAG, Update 4. Previous MAG updates included the same statement.

¹⁷⁹ Gili Cohen, "Israeli army investigating Gaza incidents reported on by Breaking the Silence", *Haaretz*, 16 July 2015, <http://www.haaretz.com/news/diplomacy-defense/.premium-1.666447> (last accessed 17 July 2015).

¹⁸⁰ Breaking the Silence, *This is How We Fought in Gaza: Soldiers' testimonies and photographs from Operation "Protective Edge" (2014)*, 4 May 2015, <http://www.breakingthesilence.org.il/pdf/ProtectiveEdge.pdf> (last accessed 17 July 2015).

¹⁸¹ State of Israel, *The 2014 Gaza Conflict*, p. 187.

¹⁸² Yoav Zitun, "Defense Minister Ya'alon objects to probe into 'Black Friday'", *Ynet*, 8 January 2015,

Turgeman, has also opposed a criminal investigation on the actions of the forces under his chain of command in Rafah, claiming “we don’t need investigations of judgments made in the heat of combat. That would have a destructive influence in the future.”¹⁸³

Separately from the FFAM and as described elsewhere in this report, the Givati Brigade inquiry into events on 1 August 2014 in Rafah,¹⁸⁴ like all operational inquiries conducted by the Israeli military, was designed to draw lessons for future combat operations, rather than to investigate potential violations. Like all such inquiries, its report has not been published, although information about some of the findings has been released to the media. The inquiry reportedly determined that Israeli forces fired an estimated 800 artillery shells and 260 mortars, and launched more than 30 aerial attacks, killing 41 people – though the precise time period covered by all those statistics is unclear from media reports – and that this use of fire was “proportionate” and meant to prevent the fighters who kidnapped Lieutenant Hadar Goldin from fleeing.¹⁸⁵ As with all operational inquiries, the internal probe relied on statements given by soldiers within the brigade, which cannot be used as evidence in any future criminal investigation or judicial proceedings. The Givati Brigade inquiry cannot be considered to have met Israel’s obligations to ensure effective, independent and impartial investigations into allegations of crimes under international law and other serious violations documented in this report. If anything, it has been used to bolster those within the Israeli military, including senior officials, who have publicly opposed opening a criminal investigation into the events of 1 August, and may also have been used by soldiers within the brigade to co-ordinate accounts on particular incidents.

MILITARY INVESTIGATIONS INTO PREVIOUS GAZA CONFLICTS: A PATTERN OF IMPUNITY

Previous Israeli military investigations of alleged violations of international law against Palestinians during Israeli offensives against the Gaza Strip have failed to meet the relevant international standards, since they have not been independent, impartial, effective, thorough, prompt or transparent.¹⁸⁶ Since Operation Cast Lead, in December 2008 and January 2009, during which some 1,400 Palestinians – including more than 300 children and hundreds of other civilians – were

<http://www.ynetnews.com/articles/0,7340,L-4613047,00.html> (last accessed 17 July 2015).

¹⁸³ Gili Cohen, “Probe of Gaza op’s ‘Black Friday’: Soldiers faced ‘unreasonable’ situation”, *Haaretz*, 14 April 2015, <http://www.haaretz.com/news/diplomacy-defense/.premium-1.651743> (last accessed 17 July 2015) (Gili Cohen, “Probe of ‘Black Friday’: Soldiers faced ‘unreasonable’ situation”).

¹⁸⁴ Gili Cohen, “Probe of ‘Black Friday’: Soldiers faced ‘unreasonable’ situation”; Tal Lev-Ram, “Exclusive: New details from investigation of Rafah battle” (in Hebrew), Israeli army Radio (Galei Tzahal), 14 April 2015, <http://glz.co.il/1138-61304-he/Galatz.aspx> (last accessed 17 July 2015).

¹⁸⁵ Gili Cohen, “Probe of Gaza op’s ‘Black Friday’: Soldiers faced ‘unreasonable’ situation”.

¹⁸⁶ Amnesty International, “Israel’s military investigations into Gaza conflict violations strengthen impunity”, 17 April 2013, <http://www.amnestyusa.org/news/news-item/israel-s-military-investigations-into-gaza-conflict-violations-strengthen-impunity>; Amnesty International, *Amnesty International’s updated assessment of Israeli and Palestinian investigations into the Gaza conflict* (Index: MDE 15/018/2011), 18 March 2011, <https://www.amnesty.org/en/documents/MDE15/018/2011/en/>; Amnesty International, *Amnesty International’s assessment of Israeli and Palestinian investigations into Gaza conflict* (Index: MDE 15/022/2010), 27 September 2010, <http://www.amnesty.org/en/library/info/MDE15/022/2010/en> (all last accessed 17 July 2015).

killed,¹⁸⁷ only three of some 52 criminal investigations have resulted in indictments, and the most serious punishment was for a soldier sentenced to 7.5 months' detention for the theft of a credit card.¹⁸⁸ Some of the criminal investigations lasted years, and in a few cases the conclusions remain unclear. The last MAG update known to Amnesty International on the status of investigations relating to the 2008-2009 conflict was published in 2011,¹⁸⁹ but it is possible that there are cases from Operation Cast Lead on which the MAG has yet to make a decision, more than six and a half years after the conflict. In mid-2012, the MAG informed the Turkel Commission, appointed by the Israeli government to examine Israel's mechanisms for investigating alleged violations of international humanitarian law, that seven criminal investigations relating to Operation Cast Lead were still pending.¹⁹⁰ In September 2014, the Israeli NGO B'Tselem reported that it was aware of at least one case of civilians killed in the 2008-2009 conflict in which the MAG had yet to decide whether to open an investigation.¹⁹¹

After Israel's eight-day Operation Pillar of Defense in November 2012, in which more than 30 children and some 70 other civilians in the Gaza Strip were killed,¹⁹² the Chief of Staff appointed Major General Noam Tibon to head a military commission examining alleged violations during the hostilities. The commission sent its findings on more than 80 cases to the MAG for a decision on whether to open a criminal investigation. The only MAG update on cases relating to Operation Pillar of Defense, issued in April 2013, reported that in 65 cases examined by the MAG, no justification was found for launching a criminal investigation, and that for approximately 15 other incidents, the

¹⁸⁷ Amnesty International, *Operation 'Cast Lead': 22 Days of Death and Destruction* (Index: MDE 15/015/2009), 2 July 2009, <https://www.amnesty.org/en/documents/MDE15/015/2009/en/> (last accessed 17 July 2015).

¹⁸⁸ Amnesty International, *Amnesty International's updated assessment of Israeli and Palestinian investigations into the Gaza conflict* (Index: MDE 15/018/2011), 18 March 2011, <https://www.amnesty.org/en/documents/MDE15/018/2011/en/>; B'Tselem, "Israeli authorities have proven they cannot investigate suspected violations of international humanitarian law by Israel in the Gaza Strip", 5 September 2014, http://www.btselem.org/accountability/20140905_failure_to_investigate (both last accessed 17 July 2015) (B'Tselem, "Israeli authorities have proven they cannot investigate suspected violations in the Gaza Strip").

¹⁸⁹ IDF Military Advocate General, "Investigating the Gaza Operation: 101 with the Deputy Military Advocate for Operational Affairs", 9 March 2011, <http://www.law.idf.il/163-4544-en/Patzar.aspx> (last accessed 17 July 2015).

¹⁹⁰ The Public Commission to Examine the Maritime Incident of 31 May 2010 (The Turkel Commission), *Second Report: Israel's Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Laws of Armed Conflict According to International Law*, February 2013, p. 345, <http://www.turkel-committee.gov.il/files/newDoc3/The%20Turkel%20Report%20for%20website.pdf> (last accessed 17 July 2015) (Turkel Commission, *Second Report*).

¹⁹¹ B'Tselem, "Israeli authorities have proven they cannot investigate suspected violations in the Gaza Strip".

¹⁹² Amnesty International, "Israel's military investigations into Gaza conflict violations strengthen impunity"; Amnesty International, "A year on from deadly Israel/Gaza conflict, the nightmare continues", 14 November 2013, <https://www.amnesty.org/en/latest/news/2013/11/year-deadly-israelgaza-conflict-nightmare-continues/> (last accessed 17 July 2015).

commission's findings were still awaiting review.¹⁹³ Cases closed by the MAG that Amnesty International had documented and believes should have been independently investigated as possible war crimes include: the bombing of the al-Dalu family home, which killed 10 family members and two neighbours; the missile strike on the al-Shawwa family apartment, which killed four civilians and injured others; and an attack without warning on the Jordanian field hospital in Gaza City.¹⁹⁴ The MAG has issued no further updates relating to cases from Operation Pillar of Defense, and over two and a half years since the conflict, no criminal investigations have been opened.¹⁹⁵

While the Turkel Commission's second report, issued in February 2013, contended that Israel's examination and investigation mechanisms "generally comply with the obligations of the State of Israel under the rules of international law", it made 18 recommendations (some of which included multiple actions) to improve Israel's investigation systems.¹⁹⁶ Some of the report's conclusions and recommendations concern flaws local and international human rights groups had highlighted for years. These include: the absence of many crimes under international law and stipulations imposing criminal liability on military commanders and civilian superiors from Israeli law; the use of operational debriefings as a basis to decide on whether to open a criminal investigation; the lack of a time frame for the MAG's decisions on the different stages of a military investigation and for decisions by the Attorney General regarding appeals on decisions of the MAG; and the fact that the MAG is appointed on recommendation of the Israeli military's Chief of Staff. Israeli human rights groups have argued that the Turkel Commission's recommendations did not address systemic issues including the system's inability to investigate senior military or political officials and the conflict of interest inherent in the MAG's dual roles in overseeing the military investigations system and the provision of legal advice prior to and during hostilities.¹⁹⁷ Amnesty International shares these concerns, but agrees with the UN Human Rights Committee that full implementation of the Turkel Commission's recommendations would be an initial step in the right direction.¹⁹⁸

¹⁹³ IDF Military Advocate General, "The Examination of Alleged Misconduct During Operation 'Pillar of Defence': An Update", 11 April 2013, http://www.law.idf.il/SIP_STORAGE/files/1/1381.pdf (last accessed 17 July 2015).

¹⁹⁴ Amnesty International, "Israel's military investigations into Gaza conflict violations strengthen impunity".

¹⁹⁵ Amnesty International, "Amnesty International's written statement to the 28th session of the UN Human Rights Council: Accountability is the only way to prevent further war crimes in Israel and the Occupied Palestinian Territories", (Index: MDE 15/1044/2015), 17 February 2015, <https://www.amnesty.org/en/documents/mde15/1044/2015/en/> (last accessed 17 July 2015).

¹⁹⁶ Turkel Commission, *Second Report*, p. 49. See pp. 424-431 for a summary of the report's conclusions and recommendations.

¹⁹⁷ B'Tselem, "Israeli authorities have proven they cannot investigate suspected violations in the Gaza Strip"; B'Tselem, *Promoting Accountability: The Turkel Commission Report on Israel's Addressing Alleged Violations of International Humanitarian Law*, August 2013, http://www.btselem.org/sites/default/files2/position_paper_on_turkel_report_eng.pdf; Adalah, *Briefing Paper on the Turkel Report – Part II*, May 2013, <http://www.adalah.org/uploads/oldfiles/Public/files/English/Publications/Articles/2013/Briefing-Paper-Turkel-II-El-Ajou.pdf> (both last accessed 17 July 2015).

¹⁹⁸ CCPR/C/ISR/CO/4, Human Rights Committee, *Concluding observations on the fourth periodic report of Israel*, 21 November 2014, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fISR%2fCO%2f4

More than two years after the Turkel Commission's second report was issued, the Israeli authorities have made limited changes to the system of military investigations in line with some its recommendations, such as the establishment of the FFAM. In early 2014, an inter-agency committee was created to consider implementation of the Commission's recommendations; in June 2015, Israel's official report on Operation Protective Edge stated that this committee was expected to conclude its work "in the near future".¹⁹⁹ However, there is nothing to suggest that the fundamental conflict of interest inherent in having the MAG oversee the investigations has been addressed, which means the military investigations system still cannot be considered independent or impartial. Although in theory Israel's Attorney General can overturn decisions of the MAG to close specific investigations, a possibility stressed by both the Turkel Commission and Israel's official report on the 2014 conflict, Amnesty International does not know of an investigation relating to an alleged Israeli violation during hostilities in the Gaza Strip where this has happened in practice.

The history of failures by the Israeli military authorities to conduct credible and effective investigations into allegations of serious violations of international law during previous hostilities in the Gaza Strip, the limited implementation of the Turkel Commission's recommendations, and clear gaps and flaws in the current military investigations raise serious concerns about the genuineness of these efforts. Accordingly, Amnesty International agrees with the conclusion of the Israeli human rights organization B'Tselem that "there is currently no official body in Israel capable of conducting independent investigations of suspected violations of international humanitarian law".²⁰⁰

OTHER ISRAELI INVESTIGATIONS ON OPERATION PROTECTIVE EDGE

The Israeli government has steadfastly refused to establish an independent commission of inquiry to examine specific violations, military orders, rules of engagement, and policy decisions during the conflict, despite repeated calls for one, or an equivalent investigatory mechanism independent of the military and government decision makers, by Israeli human rights NGOs and others during and after the conflict.²⁰¹ While the Turkel Commission's second report makes much of the fact that Israeli commissions of inquiry can be an independent investigative mechanism, the government must first agree to establish one, and there is no indication that the current Israeli government will do so for Operation Protective Edge.

Two Israeli governmental inquiries relating to the 2014 Gaza conflict, which are separate from the

[&Lang=en](#) (last accessed 17 July 2015).

¹⁹⁹ State of Israel, *The 2014 Gaza Conflict*, p. 232.

²⁰⁰ B'Tselem, "Israeli authorities have proven they cannot investigate suspected violations in the Gaza Strip".

²⁰¹ See, for example: Association for Civil Rights in Israel (ACRI), "Concerns about Violations of International Law in Operation Protective Edge" (press release), and joint letter on behalf of 10 Israeli human rights organizations to Attorney General Yehuda Weinstein, 21 July 2014, both available at <http://www.acri.org.il/en/2014/07/21/gaza-int-law/> (last accessed 17 July 2015); Yuval Shany and Amichai Cohen, "Investigating Allegations of Violations of the Laws of War by the IDF during Operation Protective Edge: The Alternatives Available to Israel", 17 August 2014, <http://en.idi.org.il/analysis/articles/investigating-allegations-of-violations-of-the-laws-of-war-by-the-idf-during-operation-protective-edge/> (last accessed 17 July 2015); B'Tselem and Yesh Din, "Israel is unwilling to investigate".

military investigations detailed above, were announced in August 2014. The Knesset Foreign Affairs and Defense Committee set up a subcommittee to inquire into Operation Protective Edge. According to Israeli media reports, the purpose of the subcommittee's inquiry was to learn lessons from the operation and assess Israel's intelligence and military preparedness, among other matters, and its conclusions were to be published in January 2015.²⁰² The subcommittee held closed hearings and questioned senior government and military officials. However, due to pressure from lawmakers from Prime Minister Benjamin Netanyahu's Likud party, the Knesset Foreign Affairs and Defense Committee is no longer expected to issue a report on its inquiry, according to Israeli media, and the inquiry has essentially been shelved.²⁰³

On 13 August 2014, the State Comptroller, a role which also functions as an ombudsman and is currently held by Judge Joseph Shapira, announced that, in light of allegations that Israeli forces breached international law, he intended to investigate the "decision-making process and oversight mechanisms" employed by the country's political and military leadership before and during Operation Protective Edge.²⁰⁴ At the end of October, Judge Shapira and high-ranking members of his office met Prime Minister Netanyahu to set the issues to be covered by the inquiry, which would include the Prime Minister's decision-making process and his actions during Operation Protective Edge.²⁰⁵ In a November 2014 letter to Amnesty International, the State Comptroller said that the inquiry would be "into the decision-making processes on the military and political level during the operation and the investigation mechanisms of the IDF and the government regarding complaints and claims of violations of the laws of armed conflict according to international law".

The State Comptroller regularly investigates Israeli government policies, actions, and decision-making processes on various issues, but does not usually investigate violations of international humanitarian law, and was therefore not one of the investigative mechanisms assessed by the Turkel Commission in its second report.²⁰⁶ The State Comptroller has announced that three legal experts will assist the inquiry; one of the three was involved in drafting the Israeli military's code of ethics, while another was a member of the Turkel Commission.²⁰⁷ A brief government announcement

²⁰² Ron Ben-Yishai, "Knesset committee launches Protective Edge probe", Ynet, 1 September 2014 www.ynetnews.com/articles/0,7340,L-4566505,00.html (last accessed 17 July 2015).

²⁰³ Amos Harel, "This lawmaker won't let the Gaza War be pushed under the rug", *Haaretz*, 24 April 2015, <http://www.haaretz.com/news/diplomacy-defense/.premium-1.653167> (last accessed 17 July 2015).

²⁰⁴ Revital Hovel, "State Comptroller to probe conduct of country's political and military leaders in Gaza op", *Haaretz*, 13 August 2014, www.haaretz.com/news/national/.premium-1.610345 (last accessed 17 July 2015).

²⁰⁵ Aviel Magnezi, "Comptroller begins investigation into Operation Protective Edge", Ynet, 23 October 2014, <http://www.ynetnews.com/articles/0,7340,L-4583627,00.html> (last accessed 17 July 2015).

²⁰⁶ See: Turkel Commission, *Second Report*, pp. 378-421, for the Commission's assessment of Israeli bodies designated to investigate alleged violations of international humanitarian law, including the MAG Corps, and its recommendations relating to the conduct of investigations.

²⁰⁷ State Comptroller, "The State Comptroller's investigation of operation Protective Edge", no date, <http://www.mevaker.gov.il/En/publication/Articles/Pages/Protective-Edge.aspx?>; see also <http://www.mevaker.gov.il/he/publication/Articles/Pages/2015.1.20-Tzuk-ElTan.aspx> (in Hebrew, 20 January 2015) (last accessed 17 July 2015).

reported that Prime Minister Benjamin Netanyahu and his staff met with the State Comptroller and his assistants as part of the inquiry on 7 July 2015.²⁰⁸ Few additional details about the State Comptroller's inquiry have been released, and the timing of its report – or even if the report will indeed be made public – are unclear. Amnesty International agrees with the UN Independent Commission of Inquiry on the 2014 Gaza Conflict, which concluded that the State Comptroller's inquiry should be supplemented by mechanisms, including criminal proceedings, “that aim, where appropriate, to hold to account individuals who may have played a role in wrong-doing, regardless of their position in the hierarchy”, but that no such investigations of senior officials have been announced.²⁰⁹

INTERNATIONAL INVESTIGATIONS TO DATE AND ISRAELI RESPONSES

The UN Independent Commission of Inquiry on the 2014 Gaza Conflict, established by the Human Rights Council in July 2014,²¹⁰ published its report on 22 June 2015.²¹¹ The Commission of Inquiry was tasked with investigating all violations of international law “in the Occupied Palestinian Territory, including East Jerusalem, particularly in the occupied Gaza Strip, in the context of the military operations conducted since 13 June 2014, whether before during or after”, and interpreted its mandate as covering the actions of Palestinian armed groups and Israeli forces. The Commission found that both Israel and Palestinian armed groups had committed serious violations of international law during the hostilities, including possible war crimes. Among other findings, it concluded that “impunity prevails across the board” for violations of international law by Israeli forces in both the Gaza Strip and the West Bank, and that “Israel must break with its recent lamentable track record in holding wrongdoers accountable”.²¹² It also noted that “in many cases, individual soldiers may have been following agreed military policy, but it may be that the policy itself violates the laws of war”, that potential violations of international humanitarian law by Israel's political and military leadership “may amount to war crimes”, and that Israel's current accountability mechanisms may well be inadequate to address these issues.²¹³

Israel did not co-operate with the Commission of Inquiry, ignoring its repeated requests for information and access to Israel and the Occupied Palestinian Territories, which forced the Commission to conduct interviews in Amman and Geneva, as well as by Skype, videoconference, and telephone. In November 2014, Israel's Ministry of Foreign Affairs officially announced that the government would not co-operate with the “UNHRC investigative committee”, due to “the council's obsessive hostility towards Israel, the committee's one-sided mandate and the publicly expressed

²⁰⁸ Prime Minister's Office, “Prime Minister Netanyahu and his staff met with the State Comptroller” (in Hebrew), 7 July 2015, <http://www.pmo.gov.il/MediaCenter/Spokesman/Pages/spokemevaker070715.aspx> (last accessed 17 July 2015).

²⁰⁹ A/HRC/29/CRP.4, *Report of the detailed findings of the independent commission of inquiry*, paras. 643-644.

²¹⁰ A/HRC/Res/S-21/1, “Resolution adopted by the Human Rights Council, S-21/1, Ensuring respect for international law in the Occupied Palestinian Territory, including East Jerusalem”, 23 July 2014, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/S-21/1 (last accessed 17 July 2015).

²¹¹ A/HRC/29/CRP.4, *Report of the detailed findings of the independent commission of inquiry*.

²¹² A/HRC/29/CRP.4, *Report of the detailed findings of the independent commission of inquiry*, para. 670.

²¹³ A/HRC/29/CRP.4, *Report of the detailed findings of the independent commission of inquiry*, paras 671-672.

anti-Israel positions of the committee's chair.”²¹⁴ Israel's decision not to allow access to Gaza to the Commission of Inquiry, or to researchers from Amnesty International and other international human rights organizations, strengthens the impression that it continues to oppose genuine investigations of its actions during Operation Protective Edge, including those which appear to amount to war crimes.

In February 2015, following a concerted campaign by the Israeli government and organizations supporting it,²¹⁵ Professor William Schabas resigned as chair, and the President of the Human Rights Council appointed Justice Mary McGowan Davis, already a member of the Commission, as its chair.²¹⁶ After the Commission's report was published, it was dismissed as a “flawed and biased” report with the “aim of undermining Israel's right to defend its citizens” by Prime Minister Benjamin Netanyahu, Deputy Foreign Minister Tzipi Hotovely, and other officials.²¹⁷ Amnesty International completely rejects Israel's claims about the Commission of Inquiry and deplores its denial of access to the Commission and other international investigators, which are the latest unfortunate moves in a sustained pattern of Israeli non-co-operation with UN mechanisms and investigatory committees.

On 3 July 2015, the Human Rights Council passed a carefully phrased resolution deploring civilian deaths on both sides during the conflict, welcoming the Commission of Inquiry's report, and calling for implementation of its recommendations, and for full co-operation with the ICC's preliminary examination and any subsequent investigation.²¹⁸ The resolution also called on all states to fulfil their obligations under the Fourth Geneva Convention to ensure respect for international humanitarian law in the Occupied Palestinian Territories and to prosecute those responsible for grave breaches of the Convention. Finally, the resolution requested that the UN High Commissioner for Human Rights report on its implementation, as well as on implementation of the recommendations of the 2014 Commission of Inquiry and the 2009 UN Fact-Finding Mission on the Gaza Conflict, at the Council's 31st session in March 2016. Although the resolution did not contain additional steps that Amnesty International had recommended, such as requesting that the General Assembly submit the reports of the 2014 Commission of Inquiry and the 2009 UN Fact-Finding

²¹⁴ Israel Ministry of Foreign Affairs, “Israel will not cooperate with UNHRC investigative committee”, 13 November 2014, www.mfa.gov.il/MFA/PressRoom/2014/Pages/Israel-will-not-cooperate-with-UNHRC-investigative-committee-13-Nov-2014.aspx (last accessed 17 July 2015).

²¹⁵ See: Amnesty International, “Q&A on recent developments relating to the UN Independent Commission of Inquiry on the 2014 Gaza Conflict” (Index: MDE 15/005/2015), 5 February 2015, <https://www.amnesty.org/en/documents/mde15/0005/2015/en/> (last accessed 17 July 2015).

²¹⁶ “Press statement on appointment of new Chair of Commission of Inquiry on the 2014 Gaza Conflict”, 3 February 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15540&LangID=E> (last accessed 17 July 2015).

²¹⁷ Israel Ministry of Foreign Affairs, “Statement by PM Netanyahu on the UNHRC Commission of Inquiry report”, 22 June 2015, <http://mfa.gov.il/MFA/PressRoom/2015/Pages/Statement-by-PM-Netanyahu-on-the-UNHRC-Commission-of-Inquiry-report-22-Jun-2015.aspx>, and “Statement by Dep FM Hotovely on UNHRC Col Report”, 22 June 2015, <http://mfa.gov.il/MFA/PressRoom/2015/Pages/Statement-by-Dop-FM-Hotovely-on-UNHRC-Col-Report-22-Jun-2015.aspx> (both last accessed 17 July 2015).

²¹⁸ A/HRC/Res/29/L.35, “Ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem”, distributed 1 July 2014, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/29/L.35 (last accessed 17 July 2015).

Mission to the Security Council,²¹⁹ it provides an important basis for moving towards accountability. European Union members on the Council were among the 41 states supporting the resolution, with five states abstaining and only the USA opposed. Israeli Prime Minister Netanyahu characterized the resolution as condemning Israel “for defending itself from a murderous terrorist organization” and again claimed that Israel “acts in accordance with international law”.²²⁰

Israel agreed to co-operate with a separate UN Headquarters Board of Inquiry, set up by UN Secretary-General Ban Ki-moon in November 2014 to investigate specific incidents of deaths, injuries and damage at UN premises in Gaza, as well as incidents where weapons were found on UN premises.²²¹ It was not established as a judicial body that would arrive at legal conclusions or pose questions of legal liability. On 27 April 2015, the UN Secretary-General issued the summary of the Board of Inquiry’s confidential report,²²² which put the responsibility on the Israeli military for seven incidents in which UN schools being used to shelter people who had fled their homes to avoid Israeli attacks came under fire, killing at least 44 Palestinians and injuring at least 227 others. One of the incidents examined by the Board of Inquiry was the Israeli attack next to the UNRWA Rafah Preparatory Boys “A” School on 3 August 2014. The report found that a precision-guided missile fired by the Israeli air force just outside the school’s gate had killed 15 people and injured at least 25; Israel claimed that the target was a motorcycle carrying Palestinian fighters, and that the incident was among those being examined by the MAG.²²³

Israel responded to publication of the report’s summary by stating: “All of the incidents attributed by the report to Israel have already been subject to thorough examinations, and criminal investigations have been launched where relevant.”²²⁴ The summary released by the Secretary-General included

²¹⁹ Amnesty International, “Statement to the UN Human Rights Council on the Independent Commission of Inquiry on the 2014 Gaza Conflict” (Index: MDE 15/1970/2015), 29 June 2015, <https://www.amnesty.org/en/documents/mde15/1970/2015/en/> (last accessed 17 July 2015).

²²⁰ Israel Ministry of Foreign Affairs, “PM Netanyahu responds to the UNHRC decision”, 3 July 2015, <http://mfa.gov.il/MFA/PressRoom/2015/Pages/PM-Netanyahu-responds-to-the-UNHRC-decision-3-Jul-2015.aspx> (last accessed 17 July 2015).

²²¹ UN News Centre, “Gaza: Ban forms independent panel to investigate recent conflict”, 10 November 2014, <http://www.un.org/apps/news/story.asp?NewsID=49296#> (last accessed 17 July 2015); Barak Ravid, “Israel agrees to work with Gaza probe into attacks on UN facilities”, *Haaretz*, 20 November 2014, www.haaretz.com/news/diplomacy-defense/.premium-1.627422 (last accessed 17 July 2015).

²²² S/2015/286, “Summary by the Secretary-General of the report of the United Nations Headquarters Board of Inquiry into certain incidents that occurred in the Gaza Strip between 8 July 2014 and 26 August 2014”, 27 April 2015, http://www.un.org/ga/search/view_doc.asp?symbol=s/2015/286 (last accessed 17 July 2015) (S/2015/286, “Summary by the Secretary-General of the report of the UN Headquarters Board of Inquiry”).

²²³ S/2015/286, “Summary by the Secretary-General of the report of the UN Headquarters Board of Inquiry”, pp. 13-14. The Board of Inquiry also concluded that Palestinian munitions were found in three empty UN schools, none of them in Rafah, and that Palestinian fighters “probably” fired at Israeli forces from two of those schools.

²²⁴ Israel Ministry of Foreign Affairs, “Israel receives summary of UN report on Gaza conflict”, 27 April 2015, <http://mfa.gov.il/MFA/PressRoom/2015/Pages/Israel-receives-summary-of-UN-report-on-Gaza-conflict-27-Apr-2015.aspx> (last accessed 17 July 2015).

the Board of Inquiry's recommendations to the UN; the Secretary-General said in an accompanying letter that these were being reviewed by an "ad hoc group of senior managers".²²⁵ It remains unclear whether any substantive measures will be taken to ensure accountability for incidents examined in the Board of Inquiry report.

The pattern of impunity for serious violations and crimes, as well as evidence that both sides were committing further crimes during Operation Protective Edge, led Amnesty International to call for an ICC investigation into crimes under international law committed in Israel and the Occupied Palestinian Territories.²²⁶ Amnesty International welcomed Palestine's accession to the ICC, which took effect on 1 April 2015, and its declaration accepting the Court's jurisdiction from 13 June 2014, while noting that the period covered by the declaration was unnecessarily narrow.²²⁷ The organization has also welcomed the ICC Prosecutor's announcement in January 2015 of a preliminary examination into the situation in Palestine,²²⁸ and urged all states to support the ICC's exercise of jurisdiction over Palestinian territory, and to oppose any retaliation or threats against the Palestinian authorities for acceding to the Rome Statute or any further moves relating to the ICC.

The ICC and its preliminary examination have generated much attention from Israeli officials and analysts, but Israeli leaders have stated repeatedly that Israel will not co-operate with the Court. Israeli Prime Minister Benjamin Netanyahu rejected the ICC Prosecutor's decision to open a preliminary examination as "absurd",²²⁹ while then Foreign Minister Avigdor Liberman condemned it as "disgraceful" and stated: "We cannot accept this, and I will recommend that Israel not co-operate with this 'examination'".²³⁰ On the same day, Israeli broadcaster Channel 2 reported that Netanyahu had asked US Secretary of State John Kerry to block the Court from launching an inquiry.²³¹ Nevertheless, even though Israel has rejected the ICC prosecutor's decision, the MAG

²²⁵ S/2015/286, "Letter dated 27 April 2015 from the Secretary-General addressed to the President of the Security Council", http://www.un.org/ga/search/view_doc.asp?symbol=s/2015/286, p. 2 (last accessed 17 July 2015).

²²⁶ Amnesty International, "Israel/OPT: International Criminal Court key to breaking cycle of injustice for war crimes", 1 August 2014, <https://www.amnesty.org/en/articles/news/2014/08/israelopt-international-criminal-court-key-breaking-cycle-injustice-war-crimes/> (last accessed 17 July 2015).

²²⁷ Amnesty International, "Retaliation against Palestine's welcome accession to ICC must stop" (Index: MDE 15/001/2015), 7 January 2015, <https://www.amnesty.org/en/documents/mde15/001/2015/en/> (last accessed 17 July 2015).

²²⁸ ICC, "The Prosecutor of the International Criminal Court, Fatou Bensouda, opens a preliminary examination of the situation in Palestine".

²²⁹ Israel Ministry of Foreign Affairs, "PM Netanyahu on decision of the ICC prosecutor", 17 January 2015, <http://mfa.gov.il/MFA/PressRoom/2015/Pages/PM-Netanyahu-on-decision-of-the-ICC-prosecutor-17-Jan-2015.aspx> (last accessed 17 July 2015).

²³⁰ Israel Ministry of Foreign Affairs, "FM Liberman on decision of the ICC prosecutor", 17 January 2015, <http://mfa.gov.il/MFA/PressRoom/2015/Pages/FM-Liberman-on-decision-of-the-ICC-prosecutor-16-Jan-2015.aspx> (last accessed 17 July 2015).

²³¹ Anadolu Agency, "Netanyahu reportedly asks US to stop ICC inquiry", 17 January 2015, <http://www.aa.com.tr/en/news/451835--netanyahu-reportedly-asks-us-to-stop-icc-inquiry> (last accessed 17 July 2015).

updates and Israel's official report on the conflict appear to have been written with the ICC preliminary examination in mind. The ICC Prosecutor, for her part, has publicly urged the Israeli and Palestinian authorities to co-operate with the examination, pointing out that it is "in the best interests of both sides to provide my office with information".²³²

Recent reports indicate that Israeli officials have decided to engage with the ICC Prosecutor on a limited basis, in order to present their position that the ICC "has no authority to hear the Palestinian request since Palestine is not a country and because the Israeli judicial system is independent and can handle complaints on the matter of alleged war crimes".²³³ Israeli officials have also stated that the Israeli authorities will consider a request from the Office of the Prosecutor for a visit to the region, which would normally be part of an ICC preliminary examination.²³⁴ While such limited engagement with the ICC Prosecutor is potentially positive, it would appear to fall far short of full co-operation with the preliminary examination, as urged by Amnesty International and the Human Rights Council resolution, among others. Amnesty International is urging Israel to accede to the Rome Statute of the ICC.

Meanwhile, Palestine submitted its first communication to the ICC on 25 June 2015, declaring that it reflected Palestine's "willingness to assist the Office of the Prosecutor by providing information relevant to her preliminary examination".²³⁵ The communication focused on Israeli settlements in the occupied West Bank, including East Jerusalem, Israel's 2014 assault on the Gaza Strip, and Israel's treatment of Palestinian prisoners and detainees.²³⁶

Amnesty International urges the ICC Prosecutor to ensure that her office hears from victims on both sides as part of the preliminary examination, and to make a prompt and transparent determination on whether to open a full investigation.

Given the failure of Israeli mechanisms to independently and impartially investigate serious violations to date, and bring suspected perpetrators to justice in fair trials, Amnesty International also continues to urge all states to exercise universal jurisdiction over crimes under international law committed in the context of Operation Protective Edge. States should investigate, and, when appropriate admissible evidence exists, prosecute these crimes in proceedings adhering to fair trial

²³² Associated Press, "ICC Prosecutor: Without cooperation, Gaza war probe will rely on evidence from just one side", *Haaretz*, 13 May 2015, <http://www.haaretz.com/news/diplomacy-defense/1.656241> (last accessed 17 July 2015).

²³³ Barak Ravid, "Exclusive: Israel decides to open dialogue with ICC over Gaza preliminary examination", *Haaretz*, 9 July 2015, <http://www.haaretz.com/news/diplomacy-defense/premium-1.665172> (last accessed 17 July 2015) (Barak Ravid, "Israel decides to open dialogue with ICC").

²³⁴ Barak Ravid, "Israel decides to open dialogue with ICC".

²³⁵ See: State of Palestine, National Higher Committee for the ICC, "Questions and Answers: Palestine's First Communication of Information to the International Criminal Court Regarding Violations of International Humanitarian and Human Rights Law", 24 June 2015, <http://www.nad-plo.org/etemplate.php?id=551> (last accessed 17 July 2015) (State of Palestine, "Palestine's First Communication to the ICC").

²³⁶ State of Palestine, "Palestine's First Communication to the ICC".

standards in their national courts.

CONCLUSION AND RECOMMENDATIONS

In implementing the Hannibal Directive in Rafah following the capture of Lieutenant Hadar Goldin on the morning of 1 August 2014, the Israeli army unleashed massive firepower that struck civilians in the street, in their homes and in moving vehicles, especially in the eastern areas of Rafah, including the vicinity of the Abu Youssef al-Najjar hospital.

There is overwhelming evidence that Israeli forces committed disproportionate, or otherwise indiscriminate, attacks that killed scores of civilians in their homes, on the streets and in vehicles and injured many more, including through repeated use of artillery and other imprecise explosive weapons in densely populated civilian areas. Hundreds of homes and other civilian structures were destroyed or damaged. In some cases, there are indications that they directly fired at and killed civilians, including some who were fleeing. Such attacks continued even after Lieutenant Goldin was declared dead on 2 August.

International humanitarian law requires that parties choose appropriate means and methods of attack when military targets are located within residential areas. This requirement rules out the use of certain types of weapons and tactics. Given the presence of hundreds of civilians, many of whom were unable to leave their homes due to continuous aerial bombardment and tank fire, the Israeli army had a legal obligation to avoid use of imprecise explosive weapons and to take other feasible precautions to spare civilians and civilian objects. Throughout the period from 1 to 4 August, the Israeli army failed to verify that they were targeting military objectives and to take other necessary precautions. In some cases they warned civilians to stay in their homes which were then bombarded; in other instances they failed to provide safe routes for civilians who were attempting to flee under heavy fire.

Statements made by Israeli army commanders and soldiers to the Givati Brigade inquiry, on the one hand, and to Israeli NGO Breaking the Silence, on the other, suggest that some attacks that killed civilians and destroyed homes and property may have been intentionally carried out and motivated by a desire for revenge, to teach a lesson to, or to punish the population of Rafah for the capture of Lieutenant Goldin.

There is consequently strong evidence that many such attacks in Rafah between 1 and 4 August were serious violations of international humanitarian law and constituted grave breaches of the Fourth Geneva Convention or other war crimes.

To the extent that some of the violations committed by the Israeli army in Rafah between 1 and 4 August may have been carried out as part of a widespread or systematic attack on the civilian population in Rafah, in furtherance of a state policy, they may also constitute a crime against humanity.

The UN Independent Commission of Inquiry on the 2014 Gaza Conflict examined the Israeli army attack on Rafah on 1 August and also raised serious concerns about the conformity of the Israeli army actions on that day with international law. The Commission's findings, which are consistent with Amnesty International's research, were that in eastern Rafah on 1 August it appeared that the Israeli army targeted all moving vehicles without distinction, and this, the Commission concluded,

amounts to a deliberate attack against civilians and civilian objects and may amount to a war crime. The Commission also raised concerns that the Israeli army acted without respect to the principle of distinction, citing the excessive and prolonged use of mortar shells as well as the firing of hundreds of artillery and tank shells on a densely populated and built-up area. As regards the Hannibal Directive, the commission stated that, while preventing the capture or freeing of a soldier offers a military advantage, the loss of one soldier from an army such as that of Israel does not reduce military capability. Further, the leverage that a Palestinian armed group may gain from having captured a soldier cannot be part of the proportionality calculus of a commander responding to such a capture. The Commission concluded that the manner in which the Israeli army conducted its operations in Rafah appeared to have violated the principles of distinction and proportionality.

Israeli army commanders and officers can operate in confidence that they are unlikely to be held accountable for violations of international law due to the pervasive climate of impunity that has existed for decades. This is essentially due to the lack of independent, impartial and effective investigations. Despite the massive toll that Operation Protective Edge had on civilians in Gaza, almost one year after the conflict, military prosecutors have indicted only three soldiers for one incident of looting. A significant number of cases have been closed on the basis that no crimes were committed (this is the case in the majority of such decisions) or that there was insufficient evidence to indict. With regard to Israeli army operations in Rafah between 1 and 4 August, the Israeli authorities have failed to conduct genuine, effective, and prompt investigations into any of the allegations of serious violations of international humanitarian law documented in this report, let alone prosecute individuals, including commanders and civilian superiors, suspected of committing or ordering related crimes under international law. They have failed to ensure that victims have effective access to justice, or to provide them with full and prompt reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

The events need to be independently and impartially investigated. Amnesty International's view is that no official body capable of conducting such investigations currently exists in Israel. It therefore makes the following recommendations:

TO THE ISRAELI AUTHORITIES

- The Israeli authorities should co-operate fully with the preliminary examination by the Prosecutor of the International Criminal Court and any future investigations or prosecutions.
- They should reform their domestic investigations system for allegations of international humanitarian law violations to ensure that it is independent, effective, prompt and transparent. As a first step, the Israeli authorities should fully implement the recommendations of the Turkel Commission regarding Israel's mechanisms for investigating allegations of violations of international law.
- They should ensure that the Israeli military revises its doctrine and tactics for fighting in densely populated areas such as Gaza so that they fully adhere to international humanitarian law, in particular the prohibition of indiscriminate and disproportionate attacks, and the requirement to take precautions in attack. This should include ordering that artillery and mortars are never used in the vicinity of civilian concentrations.
- They should allow human rights organizations access to Gaza to investigate these and other suspected violations of international law by all parties to the conflict.

- They should provide full reparation and access to an effective remedy to all victims of violations and their families, including those whose homes and property were unlawfully destroyed or damaged during attacks.
- They should immediately and fully lift the blockade imposed on Gaza since 2007.
- They should accede to the Rome Statute of the International Criminal Court and issue a declaration accepting the International Criminal Court's jurisdiction since 1 July 2002.

TO THE PALESTINIAN AUTHORITIES

- The Palestinian authorities should co-operate fully with the preliminary examination by the Prosecutor of the International Criminal Court and any future investigations or prosecutions.

TO OTHER GOVERNMENTS

- All states should support the role of the International Criminal Court in examining alleged violations of international law such as those committed in Rafah between 1 and 4 August 2014, and pressure Israeli and Palestinian authorities to co-operate fully with the Office of the Prosecutor.
- All states should oppose punitive measures against Palestine for joining the International Criminal Court or for submitting information on Israeli violations to the Court or taking other steps to activate international justice mechanisms. Similarly, no state should use the non-application of the jurisdiction of the International Criminal Court or other international accountability mechanisms as a bargaining chip in other negotiations such as in the context of the Israeli-Palestinian "peace process".
- Individual states should start criminal investigations in national courts, exercising universal jurisdiction, wherever there is sufficient evidence of war crimes or other crimes under international law, and seek to arrest alleged perpetrators and bring them to justice in proceedings that fully respect international fair trial standards.
- All states should suspend the transfer to Israel of arms, munitions, weapons and military equipment, until substantive steps have been taken by Israel to achieve accountability for previous violations and effective mechanisms are in place to ensure that weapons and related equipment will not be used to commit serious violations of international human rights and humanitarian law. The suspension should include all indirect exports via other countries, the transfer of military components and technologies, and any brokering, financial or logistical activities that would facilitate such transfers.

- All states should call on the Israeli authorities to fully and immediately lift the blockade of Gaza.