



# TIME TO ADDRESS

# IMPUNITY

Two years after the 2014  
Gaza/Israel war

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**“HAVING NO JUSTICE... SHOWS THAT THE WORLD WORKS ACCORDING TO THE LOGIC OF POWER, IT PROVES THAT ISRAEL IS ABOVE THE LAW. WE NEED... PEOPLE FROM AROUND THE WORLD TO RAISE... THE VOICE OF THE WRETCHED AND OPPRESSED, TO ASK WHY INNOCENT PEOPLE, LIKE MY DAUGHTER ASIL, WERE KILLED...”**

Saleh Abu Mohsen, father of Asil Abu Mohsen, killed by Israeli forces on 1 August 2014, talking to Amnesty International in May 2016

8 July 2016 marks the second anniversary of Israel's 50-day military offensive in Gaza, code-named Operation Protective Edge, which brought unprecedented death and destruction to the Gaza Strip in 2014.

Both Israeli forces and Palestinian armed groups committed war crimes and other serious violations of international law during the hostilities. Neither side has held anyone to account, nor conducted genuine, independent criminal investigations. Since the end of the conflict, only three Israeli soldiers have been charged with criminal offences, for looting and obstructing an investigation. Against the backdrop of hundreds of serious violations, including war crimes, documented by human rights groups, these charges are negligible and go nowhere near the heart of the problem.

During the conflict, 1,462 Palestinian civilians in Gaza, including 551 children, and six civilians in Israel were killed. Schools, medical facilities, water and sanitation networks, farms and businesses across the Strip were severely damaged or destroyed, and Gaza's only power plant was badly damaged. More than 18,000 homes in Gaza were destroyed or damaged beyond repair, leaving some 100,000 people homeless.

Two years later, most of them are still living in temporary housing, amid continuing Israeli restrictions on imports of construction materials into Gaza.

Israel's military investigations have not dealt with the military orders, rules of engagement, or policy decisions that led to the deaths and injuries of Palestinian civilians and extensive destruction of homes and infrastructure. Instead, the investigations focus on specific incidents which the military sees as "exceptional". The Military Advocate General (MAG) is the key decision-maker at each stage of the investigations, even though the MAG also had ultimate responsibility for overseeing the legal advice to Israeli forces during the conflict. This represents a fundamental conflict of interest and means that Israel's system of military investigations lacks independence and impartiality. Effectively, it serves to shield perpetrators from prosecution and entrench impunity.

Meanwhile, the Hamas authorities in Gaza have failed to investigate the firing of unguided rockets and mortars at civilian areas in Israel by Palestinian armed groups. They have also allowed Hamas forces impunity for abductions, torture and summary killings of Palestinians in Gaza accused of "collaborating" with Israel, or opposing Hamas, during the conflict.



*Palestinians stand on top of the wreckage of a house which witnesses said was destroyed by an Israeli air strike in Rafah, southern Gaza, 2 August 2014. © REUTERS/Ibraheem Abu Mustafa*

## “BLACK FRIDAY”: RELENTLESS ATTACKS ON CIVILIANS AND HOSPITALS IN RAFAH

*“We were bombarded in our house and ran away, there was no military activity around us, it was a ceasefire. We need you to force Israel to obey the law, we need you to help us achieve justice. Nothing more.”*

Saleh Abu Mohsen, whose daughter Asil was killed on 1 August 2014

Seventeen-year-old **Asil Abu Mohsen** had hoped to study at university when she was killed on 1 August 2014. On what became known as “*Black Friday*”, Israel launched an unrelenting onslaught against civilians in Rafah, a city in the southern Gaza Strip. Between 1 and 4 August, Israeli forces killed at least 135 civilians, including 75 children, in Rafah, and there is strong evidence they committed war crimes. The heavily populated area was bombarded by artillery fire and other imprecise explosive weaponry in attacks which were indiscriminate and



Asil Abu Mohsen was 17 years old when she was killed in a heavy bombardment of her neighbourhood by the Israeli army in Rafah, Gaza, on 1 August 2014. © Private

disproportionate. Asil Abu Mohsen’s family have no information from the Israeli authorities on whether there is or will be a criminal investigation into her killing.

Israel’s declared objective was to foil the capture of Israeli soldier Lieutenant Hadar Goldin, who was captured by Hamas fighters in Rafah on the morning of 1 August. However, Israel’s massive bombardment continued even after he was declared dead on 2 August. Statements by Israeli commanders and soldiers indicate that some of the unlawful attacks were motivated by a desire for revenge. Lieutenant Hadar Goldin’s capture invoked the so-called “Hannibal Directive”, a secret Israeli army operational order that authorizes the use of intense firepower if an Israeli soldier is captured, despite the risks to the captured soldier’s life or to civilians.

The attacks in Rafah on 1 August came without warning, following a ceasefire that saw civilians returning to their homes, believing they would be safe.

Asil Abu Mohsen was killed in the street after she and her family had fled their home north of Saleh al-Din Street, in eastern Rafah, as the neighbourhood was being heavily shelled. Her father, Saleh Abu Mohsen, said that 50-60 shells fell each minute, and they walked in two groups 10m apart to maximize the chance of some of them surviving. When he realized that Asil was missing, he tried to go back for her, but was prevented by missile and tank fire. Four days later, he located her body in the street, swollen and decomposed, bearing shrapnel wounds. Asil Abu Mohsen’s case – along with scores of others in Rafah – should be independently investigated as a potential war crime.

After being separated from Asil, Saleh Abu Mohsen and his other daughters fled to the **Abu Youssef al-Najjar hospital**. However, the hospital and nearby streets came under relentless Israeli fire throughout the day. Doctors and patients were injured and there was serious damage to the building. Patients fled the building, some still connected to hospital

equipment such as intravenous drips. Others were wheeled out on beds, and a child in a plaster cast dragged himself along the ground to get away, doctors and neighbours reported.

Ambulances going to and from the hospital were also attacked. An ambulance in Musabbeh, eastern Rafah, carrying a wounded elderly man, a woman and three children was hit by a drone-fired missile on 1 August, killing all those wounded and three medics. Jaber Darabih, a paramedic who arrived at the scene, described the charred remains of bodies with “no legs, no hands... severely burned”. His son, a volunteer paramedic, was among those killed in the ambulance.

Deliberate attacks on hospitals and medical staff carrying out humanitarian work are war crimes and need to be independently investigated.

## ISRAEL’S MILITARY INVESTIGATIONS

*“Having no justice until now shows that the world works according to the logic of power, it proves that Israel is above the law...”*

Saleh Abu Mohsen, whose daughter Asil was killed on 1 August 2014

Palestinian and Israeli NGOs have striven tirelessly for accountability, including by filing hundreds of complaints with the Israeli military authorities calling for criminal investigations into specific cases. However, the investigatory system is not prompt, transparent or effective. When cases are closed, often after many months, the Israeli military generally has not provided information explaining their reasoning, or how they conducted the investigations, even when pushed to do so, leaving complainants unable to challenge the decision. Two years on, there have been no final decisions in most cases.

The last public update on the status of investigations into the 2014 conflict was issued by the MAG on 11 June 2015. At the time, the MAG reported there were 20 open criminal investigations, in addition to two that it had already closed without any charges or disciplinary proceedings. Around 190 incidents had been referred to the military’s Fact Finding Assessments Mechanism (FFAM), established during the conflict to examine so-called “exceptional incidents. The MAG had finished examining 105 of those cases, but had yet to make a decision on opening a criminal investigation in the majority of those.

In May 2016, Israeli officials told the UN Committee Against Torture that the FFAM had opened some 225 cases, but that there were only eight open criminal investigations. The lack of transparency makes it difficult to establish which cases are still being criminally investigated, and which investigations have been closed. Clearly there have not been criminal investigations into many Israeli attacks which appear to be unlawful, and to date, only one criminal investigation has led to charges against three soldiers.

The only criminal investigation relating to the Israeli attacks in Rafah between 1 and 4 August 2014 announced by the MAG concerned the abuse of two Rafah residents detained by Israeli forces on 1 August. The MAG has repeatedly delayed a decision on whether to open criminal investigations into Israeli attacks in Rafah on 1 August after the “Hannibal Directive” was invoked. In February 2016, military officials including the former MAG told Israeli reporters that a decision was not expected for several more months, and that the military did not view timelines recommended by a government committee as binding.

## THE TURKEL COMMISSION

In February 2013, the Turkel Commission, appointed by the Israeli government to examine its mechanisms for investigating alleged violations of international humanitarian law, made 18 recommendations for improving Israel’s investigation systems. It recommended introducing legislation incorporating all war crimes not covered in existing Israeli law and imposing criminal liability on military commanders and civilian superiors. Its recommendations on military investigations included conducting

fact-finding assessments, rather than relying on operational debriefings as the basis to decide whether to open a criminal investigation, and setting time frames for the MAG’s decisions on the different stages of investigations.

Amnesty International agrees with Israeli human rights groups who have argued that the Turkel Commission’s recommendations did not address systemic problems, 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 providing legal advice before and during hostilities. However, full implementation of the Turkel recommendations would be at least a step in the right direction. More than three years after the Turkel Commission’s report, the Israeli authorities have taken limited steps towards implementing some of its recommendations, but these have not led to tangible improvements in accountability.



A collage of photographs shows the aftermath of the Israeli air strikes on al-Tannur, Rafah, on 1 August 2014, a date known as “Black Friday”. © Private



A Palestinian boy in Gaza sleeps in the remains of his family home during a sandstorm on 8 September 2015. The house was destroyed during the 2014 hostilities. Two years after the war, many families in the Gaza Strip still have not been able to rebuild their homes.  
© Suhaib Salem/Reuters

## BAKR BOYS KILLED ON THE BEACH AS THEY PLAYED HIDE-AND-SEEK

*"I cannot understand how a crime that took place in view of cameras, where the whole world saw how boys playing on the beach were massacred mercilessly, can pass like that without any criminals held to account. Please help us find an answer. We hope there is a chance for justice and we need your help to get there."*

Sobhi Bakr, relative of the boys killed, speaking to Amnesty International in May 2016

The dim prospects for justice from Israeli mechanisms are well-illustrated by the MAG's decision to absolve the military of responsibility for the killing of four boys from the Bakr family. The boys were killed in an air attack as they played on the Gaza City beach near the al-Deira hotel on 16 July 2014. Following a criminal

investigation, the MAG closed the file, saying the attack resulted from intelligence information reporting that Palestinian military operatives were expected in the area.

Ahed and Isma'il, aged nine, Zakaria, aged 10, and Mohammed, aged 11, were hit at about 4pm by three Israeli missiles fired at them in succession while they played hide-and-seek on the beach near the Gaza harbour where their families anchor their fishing boats. Al-Montaser Billah Ahed Sobhi, aged 11, and Hamada Khamees Sobhi, aged 13, and several adults working in a cafeteria nearby, were also injured. When the first missile killed Zakaria and Isma'il near a jetty, the other four children ran in panic across the open beach towards the closest built-up area. Thirty seconds later, another missile, aimed at the course of their flight, killed Ahed and Mohammed. A third missile injured Montaser and Hamada. Ahed Sobhi Fares Bakr, Zakaria's father, told Amnesty International the day after the boys were killed, "We are a family of fishermen, and the kids work with us, they are often on the beach, they check the boats, they play,

they hang around. [That day] they went to check on the boats..."

The attack took place in full view of international journalists staying in the nearby hotel who, in their extensive reporting of the incident, recorded that they could clearly see that the people running across the beach were children. The investigation did not explain why the army had not identified them as such. Military spokesperson Lieutenant Peter Lerner announced on Facebook on 11 June 2015 that the attack was targeting a Hamas Naval Forces "compound" which journalists described as a small, broken-down fisherman's hut. Amnesty International is not aware of the investigation gathering information from the many international journalists who witnessed the event, none of whom reported seeing military operatives in the vicinity of the hut, which was in clear view of the hotels around the beach where they were staying. At the very least, the attack failed to take required precautions to protect civilians, including to ensure that targets are of military nature before proceeding with an attack.



← © Palestinians carry the body of a boy who was killed in an air strike by the Israeli army on a beach in Gaza City on 16 July 2014. Four children were killed and two other children were badly wounded in the strike. © REUTERS/Mohammed Talatene



← © The home of the Abu Jame' family in southern Gaza. They were about to eat when an Israeli aircraft bombed their house killing virtually the entire extended family, 20 July 2014. © Amnesty International

## BOMBING OF THE ABU JAME' FAMILY HOME

*"The memory is still alive in us every day, we want to forget but we cannot, I think we are all mentally and emotionally drained now. We just want to understand why our whole family was massacred like that. We need your help so that the law can take its course and Israel is held to account for the war crimes it committed."*

Ahmad Abu Jame', a relative and neighbour of the victims, speaking to Amnesty International in May 2016

Even where investigations are opened, there is, in most cases, little or no information on progress. In an update of 7 December 2014, the MAG ordered a criminal investigation into the 20 July killing of 25 members of the extended Abu Jame' family, all civilians, on grounds that the appropriate military rules and procedures had not been

followed. The family members were killed in their home in Abu Safar, near the al-Zanneh neighbourhood of Bani Suheila, east of Khan Yunis, a city in southern Gaza Strip. It was the second deadliest single attack during the war, and one-and-a-half years after announcing the investigation, the army has provided no information to the family about its status or progress.

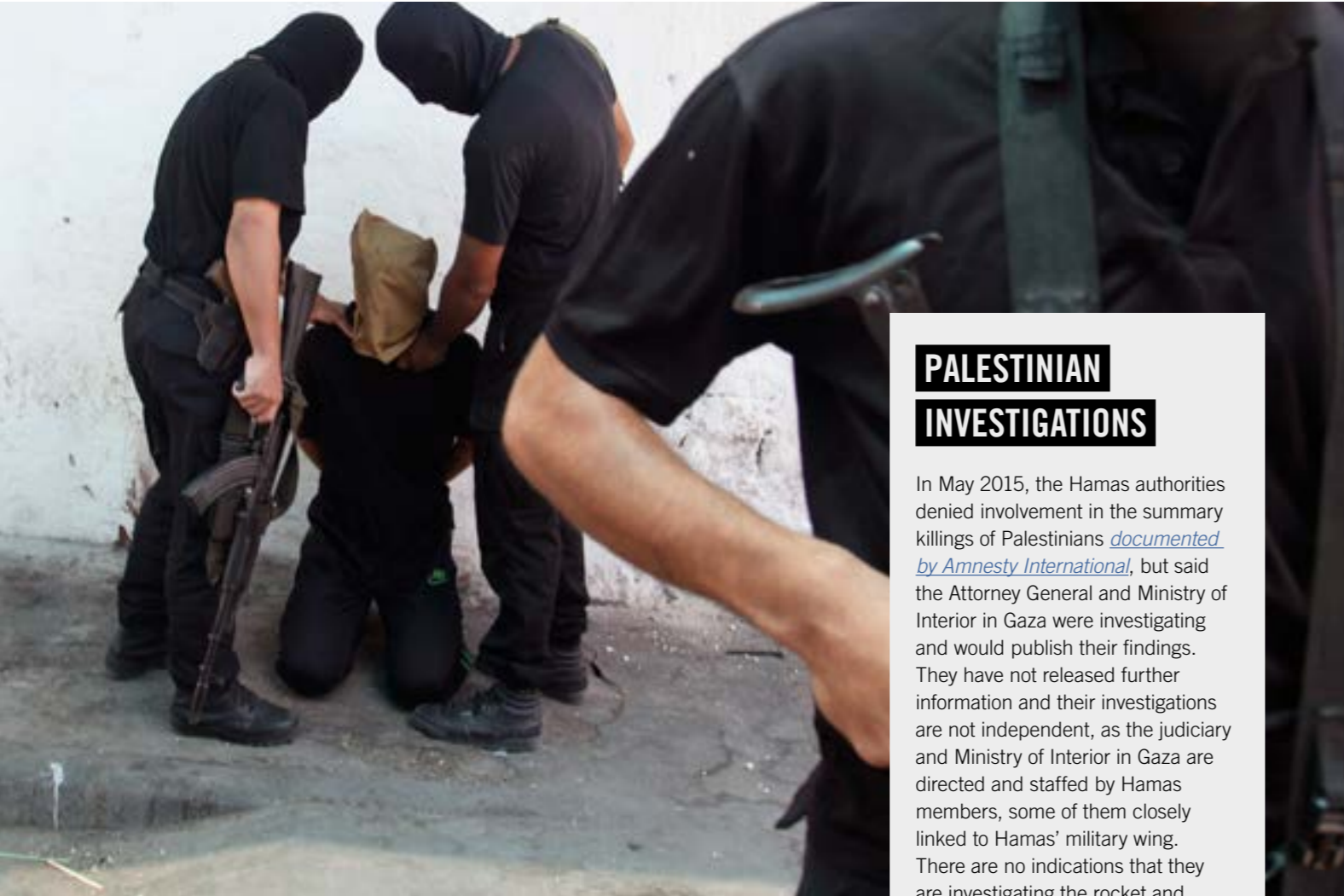
Tawfiq Abu Jame' had not known that his pregnant wife, his seven children, and his mother had been killed until he awoke later in hospital. The family were about to eat when an Israeli aircraft dropped a bomb on the three-storey house they shared with four other families, all relatives. "I was injured all over my body. I asked them [relatives in the hospital] what had happened and, at first, they told me everyone was fine. Ten minutes later they said that my mother had died. Then, they told me that my wife was killed. And, then, that virtually the entire family was dead." Only one of his children, Nour, survived the attack.

No warning was given before Israeli forces dropped what appears to have

been a large aerial bomb on the families, destroying the house and leaving a huge crater. The survivors and rescue workers worked all night to retrieve the bodies from the rubble. "There are pictures of them in the hospital; they were in shreds, just shreds. We didn't know the names of our children – it was an unsightly scene, we couldn't tell them apart," relative and neighbour Ahmad Abu Jame' told Amnesty International in August 2014.

Although Israel has not released any information on the attack, its apparent target was Ahmad Sulaiman Sahnoud, a Hamas operative, who died in the strike. The families said he was not in the building at the time but may have been in the vicinity. If Ahmad Sulaiman Sahnoud was the intended target, the attack was disproportionate and a potential war crime. It should have been apparent that a large number of civilians were in the house, and the attack should have been cancelled or postponed.

The bombing which killed the Abu Jame' family was only one of many [Israeli attacks on inhabited homes in Gaza](#) during the conflict.



## PALESTINIAN INVESTIGATIONS

In May 2015, the Hamas authorities denied involvement in the summary killings of Palestinians [documented by Amnesty International](#), but said the Attorney General and Ministry of Interior in Gaza were investigating and would publish their findings. They have not released further information and their investigations are not independent, as the judiciary and Ministry of Interior in Gaza are directed and staffed by Hamas members, some of them closely linked to Hamas' military wing. There are no indications that they are investigating the rocket and mortar attacks which killed Israeli and Palestinian civilians.

After the UN Commission of Inquiry (CoI) published its report on the conflict in June 2015, Palestinian President Mahmoud Abbas and the "national consensus" government, based in Ramallah in the West Bank, established the Independent National Committee for Investigation. This Committee is investigating Palestinian violations in the Gaza Strip and the West Bank during 2014 and 2015, including those documented by the CoI. It has held meetings with human rights groups and the Palestinian authorities in both areas, created a mechanism for Palestinian citizens to submit complaints, and hopes to complete its report in the summer of 2016. However, the Committee is not empowered to conduct criminal investigations, and it is unclear whether or how anyone will be held accountable after it submits its report.

## ATTACKS ON CIVILIANS BY PALESTINIAN ARMED GROUPS

During the conflict, Palestinian armed groups launched thousands of unguided rockets and mortars towards Israel, often directing them towards civilian areas. The [attacks](#) killed six civilians in Israel and wounded others; five were killed in indiscriminate or direct attacks that amounted to war crimes. Four-year-old Daniel Tregerman was killed when a mortar struck just outside his house in Kibbutz Nahal Oz, in southern Israel, near the Gaza Strip, on 22 August 2014. Hamas' military wing claimed responsibility for the attack.

Another 13 civilians were killed in Gaza when a projectile fired from within the Strip landed in the crowded al-Shati refugee camp, in the northern Gaza Strip, on 28 July 2014. Eleven of the victims were children who were in a supermarket or playing in the street.

The Hamas authorities have not taken steps to investigate and ensure accountability for these unlawful attacks, including war crimes, which killed civilians on both sides of the conflict.

### SUMMARY KILLINGS AND OTHER ABUSES WITHIN GAZA BY HAMAS FORCES

While Israel attacked Gaza, Hamas forces implemented brutal [attacks](#) inside the Strip, abducting, torturing and unlawfully killing Palestinians, many of them accused of "collaborating" with Israel. At least 23 Palestinians were extrajudicially executed. Dozens were tortured in custody, including many members of the rival Fatah party. Torture and extrajudicial executions committed in connection with an armed conflict are war crimes.



## THE INTERNATIONAL CRIMINAL COURT AND INTERNATIONAL JUSTICE MECHANISMS

On 16 January 2015, the Prosecutor of the International Criminal Court (ICC) announced the opening of a preliminary examination into alleged crimes committed in the Occupied Palestinian Territories (OPT) since 13 June 2014. This could lead to a full investigation, and potentially indictments against Israeli and Palestinian individuals responsible for crimes under international law. The Prosecutor is examining crimes committed by both sides during and since the 2014 Gaza/Israel war, as well as crimes including Israel's settlement policy, home demolitions, and forced transfer of Palestinians in the occupied West Bank. Before proceeding with a full investigation, the ICC Prosecutor must be satisfied that crimes in the ICC's statute – war crimes, crimes against humanity, or genocide – have been committed, and that the domestic authorities are failing to conduct genuine investigations and prosecutions.

Amnesty International believes that so long as the failure by all parties to hold accountable alleged perpetrators of war crimes and other serious violations persists, international justice mechanisms offer the only way to address impunity. An ICC investigation would be one step towards tackling impunity, as would the use of universal jurisdiction by states to prosecute crimes under international law committed in Israel and the OPT in their national courts.



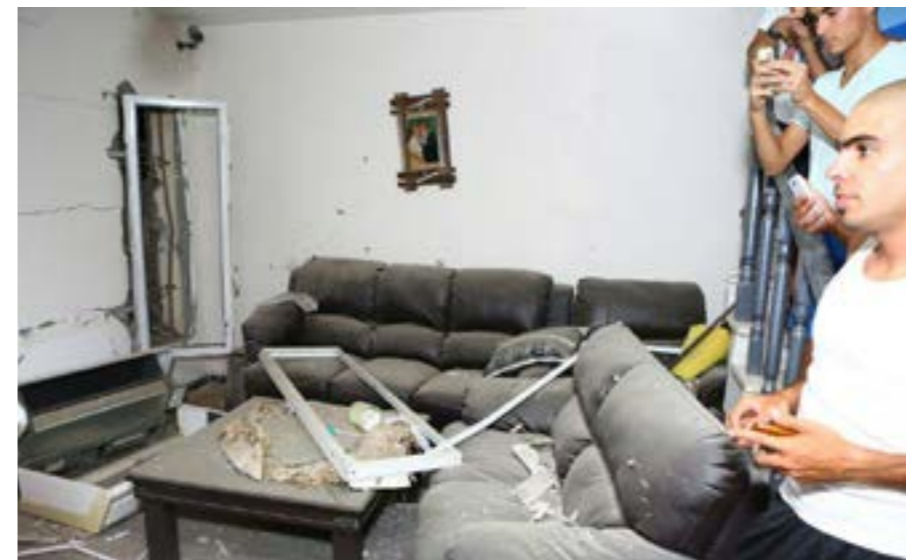
*Hamas militants grab a Palestinian suspected of collaborating with Israel before he is executed in Gaza City, 22 August 2014. © REUTERS*



*The street in al-Shati refugee camp after a projectile fired from within the Gaza Strip landed there on 28 July 2014, killing 11 children. © Amnesty International*



*A house in the city of Be'er Sheva, southern Israel, hit by a rocket fired from the Gaza Strip, 10 July 2014. © Danny-w*



# ACT NOW

Two years after Operation Protective Edge, victims on both sides are still waiting for justice, whether through genuine domestic investigations or international justice mechanisms. Amnesty International calls on all parties to co-operate fully with the ICC Prosecutor's preliminary examination.

## CALL ON THE ISRAELI GOVERNMENT TO:

■ 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, including by:

- ensuring that any investigative body is independent from those implementing, conducting or advising on Israeli attacks;

- introducing legislation incorporating all war crimes not covered in existing Israeli law, and imposing criminal liability on military commanders and civilian superiors, in line with international law; and

- providing regular information to those filing complaints and the public on the progress of investigations, and consistently adhering to reasonable timelines for decisions at all stages of investigations.

■ Provide all victims of violations of international humanitarian law committed by Israeli military forces with full reparation and access to an effective remedy.

## CALL ON THE HAMAS AUTHORITIES IN GAZA TO:

■ Make public the status of their investigations into the summary killings and related abuses committed in Gaza during the 2014 conflict, and any measures taken to ensure these investigations comply with international standards; and

■ Denounce summary killings and extrajudicial executions, as well as attacks targeting civilians and indiscriminate attacks.

## CALL ON THE PALESTINIAN "NATIONAL CONSENSUS" GOVERNMENT TO:

■ Ensure that genuine, independent criminal investigations are conducted into war crimes committed by Palestinians during and after the 2014 war, and that those responsible are prosecuted in fair proceedings without recourse to the death penalty.

## CALL ON YOUR OWN GOVERNMENT TO:

■ Actively support the ICC Prosecutor's preliminary examination on Palestine, and press the Israeli and Palestinian authorities to co-operate fully with it and conduct genuine, independent domestic criminal investigations;

■ Oppose any retaliation by Israel or other states against the Palestinian authorities or human rights NGOs for submitting information on Israeli violations to the ICC or taking other steps to activate international justice mechanisms; and

■ Exercise universal jurisdiction to investigate and prosecute crimes under international law committed in Israel and the OPT.

## WRITE TO:

### ISRAEL

Benjamin Netanyahu  
Prime Minister  
Email: [pm\\_eng@pmo.gov.il](mailto:pm_eng@pmo.gov.il)  
Twitter: <https://twitter.com/israelipm>  
Salutation: Dear Prime Minister

Military Advocate General  
Brigadier General Sharon Afek  
Email: [mag@idf.gov.il](mailto:mag@idf.gov.il)  
Salutation: Dear Brigadier-General Sharon Afek

### HAMAS AUTHORITIES

Mousa Mohammad Abu Marzouk  
Deputy Chairman of Hamas Political Bureau  
Twitter: [twitter.com/mosa\\_abumarzook](https://twitter.com/mosa_abumarzook)  
Salutation: Dear Deputy Chairman

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Twitter: [twitter.com/gpgaza](https://twitter.com/gpgaza)  
Salutation: Dear Attorney General

### PALESTINIAN "NATIONAL CONSENSUS" GOVERNMENT

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Facebook: [www.facebook.com/publicprosecution](https://www.facebook.com/publicprosecution)  
Salutation: Dear Attorney General

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Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.



*Palestinians mourn at the funeral of 18 members of the Batsh family who were killed in Israeli strikes that hit their house as they were targeting Hamas police chief Tayseer al-Batsh on 13 July 2014 in Gaza City. © THOMAS COEX/AFP/Getty Images*

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