

**Targeting Homes, Shelters and Shelter Seekers
during Operation Cast Lead
in the Context of Israeli Military Practice**

*Submission of the
Housing and Land Rights Network – Habitat International Coalition
to the UN Fact-finding Mission on the Gaza Conflict*

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Introduction

This report offers the relevant context to evidence of specific attacks carried out by Israeli forces in the 27 December 2008–19 January 2009 conflict in Gaza and southern Israel. It seeks to analyse a particular class of those incidents in such a way as to reveal the long pattern of Israeli military practice of attacking civilian shelters and shelter seekers, culminating in Israel's prosecution of the 2008–09 war in Gaza. The present inquiry covers a continuum of attacks on homes and others residences, as well as shelters housing displaced persons and refugees, as a constant object of Israel's military doctrine.

Viewing this pattern of military practice of targeting shelters and shelter seekers helps to “connect the dots” in a way that allows a new picture of a well-established practice to emerge. While many of these facts are not new, the usual method of UN inquiry in their wake limits investigations to narrow parameters that preclude understanding of the continuum of the practice. That shortcoming also allows repeated claims by the author of these offenses to deny their deliberate nature and counterclaim that such apparent excessive applications of force outside the law are merely inadvertent and exceptional. By reconstituting the integral pattern of these practices, one can raise the relevant questions and pose solutions that would serve the purpose of remedy and reparations.¹

The pattern described in the following pages raises further questions that deserve corresponding inquiry, but also cast greater doubt on the occupying Power's claims to lawful conduct of war. Beyond the clearer breaches of legal principles of proportionality and distinction, the citation of official statements related to the events under review help to address the often-elusive criterion of intent.

Finally, this dossier presents evidence of illegal acts, but also seeks to understand the rationale that lies at the base of such military behavior. At the outset of this investigation, it seemed apparent that a pattern of such behavior would emerge to characterize Israel's targeting of shelters and shelter seekers, as recently witnessed in Gaza through Operation Cast Lead. However, what the inquiry ultimately revealed was that this behavior exceeds the vague contours of coincidental recurrences, but forms military doctrine.

This submission summarizes those events in Gaza, from 27 December 2008 through 19 January 2009 that involve the military targeting of homes and shelters, including the attacks on civilian homes and displaced persons hunkering down in UN facilities under full UN coordination with Israeli authorities in order that Israel meet its obligations to protect civilians. The subsequent information then takes the reader through a chronological treatment of analogous events to demonstrate the context and continuous

patterns of this crime, made especially obvious by the close succession of such attacks in Lebanon (2006) and Gaza (2008–09).

However, in compiling the dossier, it became apparent also that the practice has deeper operational and ideological antecedents. Therefore, the chronological background, forming the bulk of this report, begins with the conduct of military operations under the protostate Jewish Agency, its Haganah (regular fighters) and related militias. Their early practices against the indigenous people of Palestine constitute a mould, as it were, into which military behavior has conformed over time, culminating in the recent operation “Cast Lead.”

Operation Cast Lead

From the outset of Operation Cast Lead, Israeli airstrikes attacked private homes and many civilian public and private structures as a matter of course. All are prohibited targets under the laws of war, unless absolutely necessary for military purposes and/or are themselves sources of the adversary's military activity. This report addresses only those most-clearly prohibited objects classified as civilian residences and places of refuge for the civilian population trapped in the Gaza Strip under bombardment. Some of those refuges were UN facilities well known and monitored in cooperation between UN and Israeli officials through their "joint coordination map."

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

Hundreds of civilians were killed in attacks carried out using high-precision weapons, including bombs and missiles launched from Israeli F-16s, and tank shells, as well as weapons whose use is prohibited in residential, urban and civilian-inhabited areas. The Israeli army also shot civilians, including women and children, at close range when those persons posed no threat to the lives of the Israeli soldiers. Aerial bombardments targeted and destroyed civilian homes without warning, killing and wounding scores of their inhabitants, often while they slept. Other attacks injured and killed civilians in and around their home in broad daylight by precision *Hellfire* missiles launched from helicopters and unmanned aerial vehicles (UAVs).

Israeli aircraft repeatedly and indiscriminately fired white phosphorus, a highly incendiary and restricted substance, over densely populated residential areas, killing and wounding civilians and destroying civilian property. Often the Israeli army launched white phosphorus from artillery shells in airburst mode, which widely spread the devastating consequences of the incendiary chemical weapon. Each shell spewed over a hundred felt wedges impregnated with highly incendiary substance, which rained down over houses and streets, igniting on exposure to oxygen and setting fire to people, homes and other buildings and properties.

UN Shelters

Early in the war, on 29 December 2008, Israeli military authorities targeted an area of Khan Yūnis that housed an UNRWA civil defense centre, as confirmed through Israeli telephone warnings to the local fire brigade. Although such UNRWA facilities normally would host sheltering displaced persons, the UNRWA Preparatory "A" Girls School across the street, closed for the Islamic New Year holiday, was not inhabited on that date. At about 15:30 on 29 December, an Israeli missile attack damaged the school and killed an UNRWA guard.²

On 5 January 2009, the UNRWA Asma' Coeducational Elementary School in Gaza City was officially opened as a shelter and apparently was under close Israeli surveillance from the air. Like all UN facilities used as shelters, UN personnel registered and searched shelter seekers for any weapons upon their entry, ensuring that such facilities remain neutral and devoid of military use or involvement. Earlier that day, Israeli planes dropped 300,000 leaflets and deployed other means to advise residents to take shelter in the city centres. In what the UN Headquarters Board of Inquiry determined as an "egregious breach of the inviolability of United Nations premises," Israeli warplanes then struck the toilet bloc of the shelter, killing three male shelter seekers.³

Most infamous of these attacks, due to widespread media coverage and international outcry, was the attack the following day (6 January) in which Israeli forces fired 120 mm mortar rounds at the UNRWA Jabāliya Preparatory Boys "C" School (a.k.a. al-Fakhūra School). UNRWA officials communicated the school's GPS coordinates to the Israeli military and informed that, as of 5 January 2009, the school was functioning as a shelter for displaced persons. Israeli forces struck the building in the afternoon of 6 January, killing between 30 and 40 persons, including a 14-year-old boy outside the school compound, and injured about 50 others.⁴

Also on that day (6 January), without warning to UNRWA's al-Burajj Health Centre, Israeli aircraft struck the urban area in which the Centre is located. When heavy aerial bombardment destroyed a vacated four-storey apartment building near the UNRWA Health Centre's entrance, the debris and shrapnel from the explosion injured nine UNRWA Health Centre staff, caused severe injuries to three patients, one of whom consequently died, and caused damage to the building and an UNRWA vehicle.⁵

On 15 January, Israel's air and ground forces were attacking Gaza City in the vicinity of UNRWA Headquarters, where displaced persons had sought shelter. Shrapnel from a high explosive shell fired into the compound injured one UNRWA employee and two shelter seekers. However, that attack could have resulted in far-greater loss of life and property. The UNRWA compound there contains food and fuel stores that easily could have erupted under the accompanying incendiary wedges dropped in Israel's phosphorus bombardment of the urban area. Only quick action by UNRWA staff to extinguish the phosphorous wedges evaded further disaster. Despite subsequent Israeli claims that Palestinian fighter had fired from the compound, the Board of Inquiry found no such evidence and determined this Israeli military behaviour to be "grossly negligent [such that] amounted to recklessness."⁶

One of the 91 provisional UN-administered shelters reported to the Israeli military, the UNRWA Bayt Lāhia Elementary School, came under Israeli attack on 17 January 2009. The facility had been operating as a shelter for nearly two weeks by the time, when Israeli aircraft exploded two rounds of white phosphorous above the school at 06:40. Ordnance shell casing fell onto the building, crashing through the roof and killing two children, aged 5 and 7, and wounding their mother and cousin. The continuous bombardment of the school with M825A1 shells caused white phosphorous to fall on the

school and on fleeing shelter seekers. In addition to the damage to the building, this attack left two dead and a total of some 13 injured.⁷

In all of these incidents, the Board of Inquiry found Israeli forces to have breached the inviolability of United Nations premises and property of the United Nations, which the military subordinated to demands of military expediency, or otherwise determined no military purpose. Therefore, the Board of Inquiry found Israel liable for damage injuries and deaths incurred.⁸

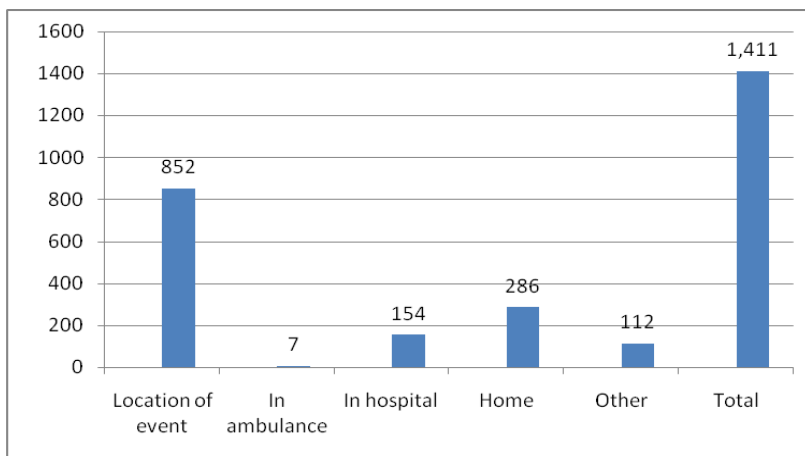
Civilian Residences and Shelters

During the military operation, Israeli forces killed or fatally wounded a total of 1,411 persons, of whom 355 were children (under the age of 18); 110 were women and 240 were resistance fighters. In the process, Israel’s air and ground actions partially or fully destroyed 11,135 homes, 209 industrial premises, 724 commercial establishments, 650 vehicles and 6,271 dunams (627.1 hectares) of agricultural land. This section conveys the best available information on the destruction of houses and other residential structures across the Gaza Strip during Operation Cast Lead.

The numbers of persons killed and extent of property destroyed by the Israeli occupation forces have been provided by the field investigations of Al Mezan Center for Human Rights, Palestinian Center for Human Rights, al-Dameer Association for Human Rights and other reliable local sources. Those sources differ to some degree in their numerical findings, but are consistent in their analysis that the majority of house demolitions and destruction of residences were without military purpose or necessity. The present rendition of the facts relies primarily on Al Mezan’s statistics, but augments those with other sources as identified.

Fatalities by Location of Death	
Location of event	852
In ambulance	7
In hospital	154
At home	286
Other	112
Total	1,411

The high numbers of Gaza’s war victims killed in their homes constitutes the second largest category of fatalities, after those classified succumbing at the location of other military operations. However, this does not form an exact correlation between civilians dying at home and those attacked in their homes. This classification of fatalities also does not distinguish between combatants and civilians. It could be conceivable—however, not very likely—that a combatant or civilian could be wounded elsewhere and died at home. Partially evident in



the relatively low proportion of fatalities taking place in hospital, as compared with other places, is attributed to the unlikelihood that many such cases would not have the mobility to be transported to hospital under the general ban on safe movement throughout the Strip.

Affected Homes by Extent of Damage/Destruction by Governorate												
Extent	Governorate											
	North Gaza		Gaza City		Dayr al-Balah		Khan Yunis		Rafah		Totals	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Complete	888	26.852	902	15.36	175	37.63	245	50.52	417	42.25	2,627	23.62
Partial	2,419	73.148	4,976	84.65	290	162.37	240	49.48	570	57.75	8,495	76.38
Totals	3,307	100	5,878	100	465	100	485	100	987	100	11,122	100

In the various aggregations of these figures, some minor discrepancies appear. However, it is generally perceived that such variations do not significantly effect the thesis that the attacks on private homes and shelters formed a major feature of the military operation.

The consequent displacement of civilians from such attacks swelled the numbers of shelter seekers throughout the war. Those fleeing from direct attacks on their homes—apart from other well-founded fear—are enumerate in the following table.

Residents of Affected Homes by Extent of Damage/Destruction and Governorate						
Governorate	Extent of damage/destruction				Totals	
	Complete	Residents	Partial	Residents	Homes	Residents
North Gaza	888	8,023	2,419	24,286	3,307	32,309
Gaza City	902	7,810	4,980	52,583	5,882	60,393
Dayr al-Balah	175	1,280	290	2,487	465	3,767
Khan Yūnis	245	1,688	240	1,887	485	3,575
Rafah	417	3,042	570	4,155	987	7,197
Total	2,627	21,843	8,499	85,398	11,126	107,241

Israeli civilian and military spokespersons have repeated their intent to destroy targets not characterized as having military objectives, or the destruction of which does not meet the requirements of military necessity. " Hamas's civilian infrastructure is a very, very sensitive target. If you want to put pressure on them, this is how," said Matti Steinberg, a former adviser to Israel's domestic security.⁹

Tactical forms of house demolition

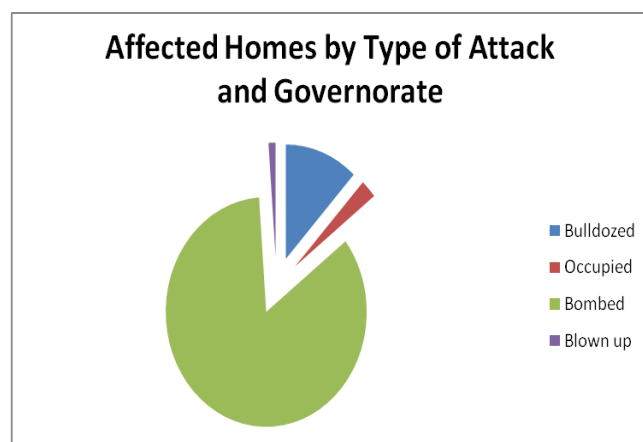
Israeli forces pursued a variety of means to destroy housing across Gaza. These included:

1. bombing by airstrikes,
2. razing with military bulldozers,
3. detonation with strategically placed explosives,

4. burning by white phosphorous-induced fires,¹⁰ as well as
5. damage and destruction by the vandalism of Israeli soldiers occupying confiscated homes to base military operations or surveillance.

Israel's use of the tactic of blowing up Palestinian homes with explosives suggests a high degree of confidence that soldiers were operating in a field free of armed resistance, tunnels, or other means for resistance fighters to be stationed. The army applied such a house-demolition method, including also through its "clearance" of wide areas upon leaving an installation zone that has become known as the "day after" procedure. These tactics required Israeli soldiers to leave their armored vehicles on foot and enter houses to place the explosive charges at cardinal points in the building's structure for remote detonation. It also indicates their confidence that the houses were not already booby-trapped.¹¹ When redeploying to a new area, this practice effectively meant blowing up or bulldozing entire neighborhoods in a scorched-earth policy euphemized as "the day after" procedure.¹²

On 4 January 2009, Israeli soldiers shot members of the Abu Halima family as they brought relatives to hospital to seek treatment for injuries incurred in a devastating white phosphorus attack on their home in the Sayafa area, in the northwest of Gaza. Matar Abu Halima, 27, and his cousin Muhammad Hikmat Abu Halima, 19, were both killed in the attack. Matar's mother, Nabila, told Amnesty International of the struggle to bring the wounded to hospital and Israeli forces' denial of aid workers to reach the site, where their deceased relatives remained for 11 days before being removed for burial.¹³



Affected Homes by Type of Attack and Governorate												
Type of attack	Governorate										Totals	
	North Gaza		Gaza City		Dayr al-Balah		Khan Yunis		Rafah			
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Bulldozed	498	14.49	474	8.297	43	9.13	225	46.58	67	6.907	1,307	11.8
Occupied	220	6.403	68	1.19	1	0.212	1	0.207	0	0	290	2.619
Bombed	2,625	76.4	5,142	90.01	426	90.45	257	53.21	900	92.78	9,350	84.44
Blown up	93	2.707	29	0.508	1	0.2129	0	0	3	0.309	126	1.138
Totals	3,436	100	5,713	100	471	100	483	100	970	100	11,073	100

All types of housing became the target of the advancing air and ground forces. According to the monitoring of Al Mezan Center, the most commonly affected structures were ground floor (one-storey) homes, apartments and other residential buildings. Refugee shelters built by UNRWA form another category of often-affected housing, which is found in the eight refugee camps throughout the Gaza Strip and which host about 46% of the Strip's total registered refugee population.¹⁴

Israeli forces targeted the home of Islamic law professor and Hamas leader Sheikh Nizar Rayyān in Jabāliya, on 1 January, killing him and 15 members of his family, including 11 children. The force of the bombardment destroyed ten adjacent houses. On 11 January, Israeli forces killed four members of a single family when an Israeli tank fired a shell into their home in Gaza City.¹⁵

On 4 January, Israeli forces knowingly massacred some 30 Palestinians in the Zaitūn neighborhood, southeast of Gaza City, when they shelled a house where they had ordered about 110 civilians to take shelter and remain indoors. Just 24 hours after delivering their order, the Israeli army shelled the house. About half the Palestinians sheltering there were children. The Israeli army personnel then prevented medical teams from entering the area to evacuate and treat the wounded, allowing some International Committee of the Red Cross (ICRC) and the Palestinian Red Crescent Society staff eventually to approach the site on foot—without ambulances—during the three-hour lull in hostilities, three days later, to evacuate about 30 survivors, including 18 wounded.

Affected Residences by Type of Structure

Type of structure	Number	%
Villa	176	1.59
Ground floor	2,490	22.54
Rural house	373	3.37
Penthouse	1	0.009
Residential building	4,303	38.96
UNRWA housing	779	7.05
Apartment	2,921	26.45
Totals	11,043	100

Type of urbanization	Affected Homes by Type of Urbanization Category and Governorate											
	Governorate										Totals	
	North Gaza		Gaza City		Dayr al-Balah		Khan Yunis		Rafah			
No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	
Refugee camp	251	7.58	193	3.28	299	64.3	14	2.86	42	4.25	799	7.176
Rural	1,632	49.3	724	12.3	156	33.5	79	79	280	28.3	3,179	28.55
Urban	1,427	43.1	4,965	84.4	10	2.15	89	18.2	666	67.4	7,157	64.27
Totals	3,436	100	5,882	100	465	100	483	100	970	100	11,135	100

On Friday, 9 January, Israeli aircraft attacked the house of Fayiz Salha with a heavy missile. A drone (UAV) had fired a warning missile two minutes earlier. The inhabitants did not manage to leave the house before the major bombardment; therefore, Israeli forces killed six of its residents; including four children and two women: Rula Fayiz Salha, 1; Baha' Fāyiz Salha, 4.5; Rana Fāyiz Salha, 12; Dhia' Fāyiz Salha, 14; Fatima al-Haw, 22; Randa Fāyiz Salha, 33. The attack completely destroyed the house and damaged four neighboring homes.¹⁶

On 12 January 2009, an Israeli aircraft fired a missile at Hammūda-and-Banna apartment compound, which is located in al-Zarqa' area in Jabāliya town. While the residents of the compound were trying to vacate their apartments following the first attack, the Israeli occupation forces fired several artillery shells at the compound, killing 18-year-old Ayat Kamāl al-Banna, and injuring four others, including two children. Once

ambulances arrived at the scene of the attack to pick up the victims, at approximately 16:22, Israeli troops fired several shells at them, striking an ambulance and killing Dr. Issa `Abd ul-Rahīm Sālih, 28, and injuring ambulance driver Ahmad `Abd al-Bari, 25. The shelling of the same apartment compound continued, killing a 23-year-old woman, Fariāl Kamāl al-Banna, and a 20-year-old man, Mustafa al-Bāsha, and injuring another five people.¹⁷

There is no evidence that residents' affiliation to Hamas or any other organization formed any pretext for the attacks on Palestinian family homes in Gaza. In the afternoon of 8 January 2009, an Israeli shell struck the home of a well-known Fatah political leader, Dr. Jaber Abū al-Naja', on the seventh floor of the Doctors' Tower (*Burj al-Attibba'*) in Gaza's Tal al-Hawa neighbourhood. The strike killed his wife, Ruqaya, and his son-in-law, journalist Ihāb al-Wahīdi. The attack also seriously injured his daughter, Ihsan. Dr. Abū al-Naja has testified how he was at home with his family listening to the news when the attack devastated his family.¹⁸

In the afternoon of 16 January 2009, two 120 mm Israeli tank shells struck a room in the fourth floor apartment of Dr. `Izz al-Dīn Abū al-'Aish, a well-known friend of Israel, killing three of his daughters, and seriously injuring another daughter, a niece and his brother. Two successive salvos struck the girls' room, where the five teenagers were studying. In this now-infamous case, on 4 February, the Israeli army finally admitted that the strike had been from an Israeli tank.¹⁹ Later, in a BBC interview, Israel's then Interior Minister, Meir Sheetrit, dismissed the strike on Dr. Abū al-'Aish's house, saying: "If somebody has to be blamed, it is the Hamas."²⁰

According to the findings of a recent Amnesty International investigation,

For the vast majority of homes destroyed, more than 3,000, and damaged, some 20,000, during Operation "Cast Lead", the Israeli army has provided no evidence to substantiate its allegations that the houses were used as combat positions, as military command centres or to manufacture or store weapons – or for any other purpose which, under certain circumstances, would have made it lawful to target them.²¹

Contrary to repeated allegations by Israeli officials of Hamas fighters' use of "human shields," no evidence from any party has revealed such a practice on Hamas' part, nor of any related evidence rendering civilian properties, especially homes, as sources of armed resistance. Similarly, no evidence has come forward to verify Israeli claims that that Hamas or other Palestinian fighters directed the movement of civilians to shield military objectives from attack, that Hamas or other armed groups forced residents to stay in or around buildings used by fighters, or that resistance fighters prevented residents from leaving buildings or areas that resistance fighter had commandeered.²²

Displacement

The precise number of displaced persons in Gaza is unknown. However, 32 UNRWA schools across the Gaza Strip had capacity to shelter 30,000 people in their buildings and compounds, but aid officials warned that the dire security situation made it

impossible to operate at full capacity.²³ According to Al Mezan Center for Human Rights, those seeking shelter in UN installations represented only about 10% of the total newly displaced persons in Gaza.²⁴

The Israeli invasion forces have displaced civilians violently by means of:

1. Direct house bombardment, resulting in casualties;
2. Threatened bombardment of neighbors' houses;
3. Spreading fear among residents by dropping threatening leaflets and/or otherwise ordering them to vacate their homes.

At the same time, as shown below, the Israeli army cut Gaza into four parts and launched attacks on humanitarian workers; rendering humanitarian agencies unable to tend to even 10% of the displaced population.

Demography of homelessness

Of those forced to seek shelter following the military damage or destruction of their home, over half were children. A relatively small percentage of the total affected families (7%) were female-headed households, but their actual number of 763 such families is significant.

Affected Homes by Composition of Household					
Governorate	Male	Female	Total households	Total residents	Children residents
North Gaza	3,104	202	3,306	32,322	15,498
Gaza City	5,466	411	5,877	60,469	30,560
Dayr al-Balah	420	45	465	3,767	1,793
Khan Yunis	440	45	485	3,575	1,822
Rafah	926	60	986	7,197	3,444
Totals	10,356	763	11,119	107,330	53,117

Deceptive warnings

Randomly placed telephone calls with recorded messages, leaflets dropped from aircraft and radio broadcasts by the Israeli army across Gaza reportedly caused widespread panic, but offered little protection. These “warnings” instructed inhabitants to leave their homes and neighbourhoods; whereas, in many such areas, residents were trapped in their homes under complete curfew and with the growing knowledge that any movement in the open could invite a direct missile or sniper attack.

Others who fled their homes were killed or injured when UN schools and other places where they had sought shelter came under Israeli attack.²⁵ Many Gazans whom Israeli occupation forces ordered to stay put in specific shelters, as in the case of above, subsequently became the target of Israeli missile fire. The putative warning system was neither effective nor ingenuous.

The Past as Prologue

While these practices in Gaza may suggest a pattern of targeting civilian homes and generating displaced populations in the prosecution of Operation Cast Lead (2008–09), such episodes are not unique to the behavior of Israeli forces in battle. The purpose of this report is to place these instances in their context, rather than subject them to a narrow scope of inquiry that evades the lessons that arise from the continuity of practice.

Israel's military practices of wanton destruction of homes and large-scale displacement of population, including also targeting shelters and shelter seekers as military objects, are found here to be consistent over time and across borders. The period of concern spans from the war that preceded the proclamation of the state in 1948, through the development of Israel's "doctrine" of urban warfare through operations in neighbouring states, the practice of house demolitions as collective punishments applied in the occupied Palestinian territory and the prosecution of its wars on Lebanon, particularly the notable operations in 1978, 1982, 1993, 1996 and 2006.

While this chronological presentation of the continuous military practices of house demolitions and displacement, including the targeting of shelters and shelter seekers, attempts both to shed light on this understudied phenomenon as a continuum, but also to understand the development of the rationale for the practice that seeks to fill the breach with norms of the law of war.

Population Transfer since 1948

The acts of war that led to the proclamation of Israeli statehood involved the increasingly regularized forces of the Zionist colony established in Palestine during four decades of the early 20th Century. Until the establishment of the state, those forces were diverse and supplied by institutions such as the World Zionist Organization/Jewish Agency (WZO/JA) and Jewish National Fund (JNF), rather than raised by a bona fide state. Those institutions also continue to operate today as Israel's parastatal institutions, linked to the state by the Status Law of 1952 and other legislation, and engage in the continuing population transfer, the management of plundered and otherwise acquired Palestinian properties and the further development of the country for its exclusive beneficiaries, whom these institutions define as those having "Jewish nationality" (not all Israeli citizens).

Toward the end of the British Mandate, the Zionist forces included members of the "Jewish Brigade" of the British forces, as well as the Zionist military structures of the Haganah (ten brigades, among them three Palmach brigades, totaling some 62,000 troops),²⁶ plus the underground Irgun Zvai Leumi (3–6,000 troops) and Stern Gang (2,000 troops). As these forces united under the leadership of Jewish Agency President David Ben Gurion, who later served as Israel's first prime minister, a consistency of military practice began to emerge in the targeting of homes and permanent displacement of the indigenous Palestinian population.

February 1947–May 1948

The decision of the British Cabinet in February 1947 to leave the question of Palestine to the United Nations gave rise to a nine-month UN process of determining the future of the country. That led to partition of Palestine under the General Assembly recommendation adopted in resolution 181, 29 November 1947. Thus, the ethnic cleansing of Palestine proceeded systematically in early December 1947 with a series of Zionist attacks on Arab Palestinian neighbourhoods and villages in retaliation for Jewish properties damaged when Palestinians targeted then in protest to the UN resolution. These actions, involving dispossession and expulsion of the Palestinian residents, formed no particular pattern at the beginning, but already caused the displacement of some 75,000 Palestinians.²⁷

These displacements resulted from the attacks on villages such as Dayr Ayyūb and Khisas, in the Galilee. As Dayr Ayūb villagers were celebrating the opening of their new self-built school, Haganah forces attacked the undefended village at about 22:30, on 11 December 1948, randomly shooting into houses. They returned to attack three more times, until they completely depopulated the village in April 1948.²⁸

Palmach forces also attacked Khisas in the wee hours of 18 December 1947, blowing up houses as villagers were sleeping. That operation killed 15, including five children.²⁹



The Irgun's barrel bomb, 1947

On the same day as the Khisas attack, Jewish Agency President Ben Gurion laid out the plan for more-ambitious operations in the urban center of Haifa. The 75,000 indigenous Palestinian inhabitants of Haifa came under a reign of terror by the end of 1947. In that operation, the Irgun innovated the “barrel bomb” to spew petrol flames igniting Arab homes as the barrels rolled down the stepped paths of Haifa neighbourhoods.³⁰ Within a week, similar tactics followed by the invasion of the regular Haganah units, forced 77,000 of 80,000 Palestinians to flee the port city of Jaffa.³¹

As the all-volunteer Arab army entered Palestine on 9 January 1949, the Zionist forces shifted their tactics from retaliation operations to the depopulation of entire Arab communities. In February, they managed in one day to depopulate five entire villages.³²

On the night of 14–15 February, Palmach commander in the north, Yigal Allon, ordered the attack on the Palestinian village of Sa`sa`. Charging Moshe Kalman with the task, Allon ordered that “You have to blow up twenty houses and kill as many *warrriors* as possible” [emphasis added].³³ With no apparent resistance, Palmach forces entered the village at midnight and attached TNT to the houses. The Zionist troops then detonated

one house after another until, according to Kalman, “We left behind 35 demolished houses and 60–80 dead bodies.”³⁴

In February 1948, Ben Gurion decided to enlarge his advisory group, the “Consultancy,” to include members of the Zionist organizations (WZO/JA, JNF, etc.) responsible for procurements of heavier arms, and the development of new weapons such as the flame-thrower used against Palestinian houses.³⁵

The Zionist forces implemented “Plan Dalet,” which the political and institutional leadership adopted on 10 March 1948 with a focus on conquest of all Arab urban centers within the area proposed as the “Jewish state in Palestine” recommended under GA resolution 181. By April, and before the Arab League’s forces deployed after the British Mandate formally ended, that phase of depopulation displaced another 250,000 Palestinian civilians.

As a result of implementing the WZO/JA’s Plan Dalet (1948), the Israeli forces depopulated and eventually demolished—to deter return—well over 530 Palestinian villages. Those properties belong to many of the current 5.5 million Palestinian refugees surviving and holding claims outside their country, to whom Israel administratively forecloses return and access to their country and properties. (See map below, “Depopulated Palestinian Villages in 1948 and 1967.”)

“These operations [“against enemy population centers”] can be divided into the following categories:

Destroying villages (by setting fire to them, by blowing them up, and by planting mines in their debris), especially those populations centers that are difficult to control continuously;

Mounting search and control operations according to the following guidelines:

- Encirclement of the villages, conducting a search inside them;
- In case of resistance, the armed forces must be wiped out and the population expelled outside the borders of the state.”

Plan Dalet, 10 March 1948



Bedouin of the Naqab/Negev, 1951–53

Unlike the Bedouin in other Middle Eastern countries, the Naqab (Negev) Bedouin, part of the Palestinian people and now citizens of Israel, were almost completely sedentarized when the Israeli government began implementing its own sedentarization policies.³⁶ Thus, unlike in other countries, these programs were not aimed at settling a nomadic community, but rather at the eviction of the Bedouin from their lands and the mass transfer of that group of the indigenous Palestinian people to state planned and controlled townships.

The early Zionists did not consider the region known as al-Naqab as part of their envisioned “Jewish state” in Palestine. It was only after a 19 November 1947 meeting between World Zionist Organization/Jewish Agency President Chaim Weizman and U.S. President Harry S. Truman that the United States switched its position and advocated including the southern district of Palestine into the proposed “Jewish state in Palestine.”³⁷

The Israeli army drove the majority of the Bedouin out of the southern region of the emerging Israeli state during the 1948 war. Of a total 95,000 population, only 11,000 Bedouin remained.³⁸ After the war, Israeli forces continued to expel many Bedouin, in part based on the administrative pretext that the authorities’ had refused to provide them with Israeli identity cards.³⁹ Since anyone found without identity cards was subject to expulsion to Jordan or Egypt, countless Bedouin became stateless in this way until Israel began to issue such documents later in 1952.⁴⁰ Israeli forces uprooted the remaining inhabitants from their homes and lands, and placed them under military rule in an enclosure zone (*al-siyāj*) for eighteen years that encompassed only about 10 percent of the Bedouins’ traditional land holdings.

Israeli military and administrative authorities immediately uprooted 11 tribes west of Bi’r Sabi’ (Beersheva) and their inhabitants became landless overnight. Meanwhile, the Israeli army proceeded to depopulate and demolish over 80 villages in order to eliminate any incentive for their inhabitants to return.⁴¹ Since many of these villages were demolished outside of the context of the 1948 war of conquest, they do not always appear on maps that inventory those war-induced demolitions.

The majority of these Naqab depopulation-and-transfer maneuvers took place between 1951 and 1953. On September 1953 the Israeli army’s General Headquarters ordered its Unit 101 to drive the indigenous Bedouins out of the Naqab region and push them southward to Sinai, in Egypt. Soldiers of Israel’s Unit 101 raided Bedouin camps and villages, shooting aimlessly, confiscating arms and burning tents and houses. For several days thereafter, Unit 101 pursued the escaping Bedouins until they were out of the Naqab⁴² where they became stateless persons in neighboring countries.

The current state policies toward the indigenous citizens of the Naqab/Negev share features of this legacy. The continuity of land confiscation and, especially, house demolitions remain central to Israel’s population transfer and demographic policies that “judaize” the area through the discrimination institutionalized through its Ministries of

Housing and Interior, the Israel Lands Authority, as well as the parastatal institutions cited above (WZO/JA and JNF, among others).

Significant to the investigation of violations in the context of Operation "Cast Lead" is that that military campaign and the ongoing dispossession and house demolition policies against the Palestinian Arab Bedouin citizens of the state coincide. Moreover, the resulting patterns of population transfer and displacement over the years, in addition to the indigenous social patterns they seek to interrupt, mean that many families in Gaza and the Naqab are blended and form part of one indigenous people. It is, therefore, difficult to separate the consequences of the Gaza war from a community so geographically close, historically linked and socially organic as those in the Naqab and Gaza Strip.⁴³

al-Buraij Refugee Camp, 1953

Ariel Sharon relentlessly asks the General Headquarters to authorize more retribution acts in the face of sporadic Arab resistance incursions from Gaza and Sinai. The General Headquarters approved the nocturnal attack al-Buraij Refugee Camp in Gaza, which took place on 28 August 1953. Upon entering the camp, local defenders detected Unit 101's presence. Commander Ariel Sharon commanded his forces not to retreat, but to forge ahead through the camp and withdraw from the other side. Throughout their route, Sharon and his men attacked the Palestinian civilians in their homes. General Vagn Bennike, the Danish UN Truce Chief, reported to the Security Council on the ensuing massacre: "Bombs were thrown through the windows of huts in which the refugees were sleeping and, as they fled, they were attacked by small arms and automatic weapons. The casualties were 20 killed, 27 seriously wounded, and 35 less seriously wounded." Other sources estimate from 15 to 50 fatalities. Sharon blatantly dismissed later criticism by Unit 101 soldiers for killing innocent civilians, among them women and children. He replied: "The women are whores. They serv[ic]e the Arab militiamen who infiltrate into our communities and attack the citizens of our country. If we don't act against the refugee camp, it would become a murderers' nest."⁴⁴

Qibya 1953

On the night of 14 October 1953, Arab militiamen (*fedayi`in*), killed a Jewish settler and two of her children in their sleep when they infiltrated into the Israeli settler colony of Yahud. (The settlement occupies the site of the former Palestinian village of al-`Abbasīyya, which the Irgun attacked and depopulated on 13 December 1947 by attacking villagers gathered in the local coffeehouse and by detonating homes.) The Israeli army's high command singled out the Jordanian West Bank village of Qibya as the object of retribution and ordered Unit 101 Commander Ariel Sharon to attack the village, capture it temporarily, detonate the village's houses and cause as many casualties as possible. A paratrooper company and Unit 101 joined forces in the attack, equipped with 600 kilograms of explosives.

In Qibya, Sharon's soldiers carried out the attack, codenamed "Operation Shoshana," detonated village houses, a school and a mosque without checking whether or not they were inhabited. As a result, they killed 69 people, half of them women and children who died sheltering in the detonated houses.

At dawn, the army considered the mission accomplished, and the Israeli troops returned to base.⁴⁵ Primary documents at the time indicate that Commander Sharon personally ordered his troops to achieve "maximal killing and damage to property." Postoperational reports record the practice of breaking into houses and "clearing" them [of personnel] with grenades and shooting.⁴⁶ The Israeli side incurred no casualties, but for one soldier who was slightly wounded.

The U.S. State Department and the UN Security Council condemned the attack.⁴⁷ In a radio broadcast on 19 October 1953, Israeli Prime Minister David Ben Gurion denied that any army unit had left its base on the night of the Qibya attack, blaming the incident instead on an unnamed group of local Israeli settlers.⁴⁸

According to the Mixed Armistice Commission report, approved on the afternoon immediately following the operation and delivered by Major General Vagn Bennike to the UN Security Council, the raid at Qibya took place on the evening of 14 October 1953, at around 21:30, and was conquered with roughly half a battalion of regular Israeli soldiers. It began with a mortar barrage on the village until Israeli troops reached the outskirts of the village. The Israeli forces used Bangalore torpedoes to breach the village defences. They laid landmines on roads to prevent Jordanian troops from joining the fight.

At the same time, the Israelis fired at least 25 mortar shells into the neighbouring village of Budrus. Israeli forces acted simultaneously from three sides of the village to blow up 41 dwellings, plus the village school. They killed 42 villagers, and wounded 15. The UN observers noted that:

Bullet-riddled bodies near the doorways and multiple bullet hits on the doors of the demolished houses indicated that the inhabitants had been forced to remain inside until their homes were blown up over them.⁴⁹

Nahalīn, 1954

On 28 March 1954, a raid by Unit 101 on an Arab Legion base four kilometers inside the Jordanian-administered West Bank, at the village of Nahalīn, involved Israeli forces that failed to reach the base and, instead, placed mines at some houses, as well as at the mosque of the village. In that attack, Israeli forces killed five national guards, three legionnaires (who were in transit from the Arab Legion base to the village) and one woman, and wounded 18 civilians. Some sources report 19 killed, including men, women and children.⁵⁰

Invasion of Sinai and Gaza Strip (Operation Kadesh), 1956–57

On 1 March 1957, Israeli Foreign Minister Golda Meir announced that Israel agreed to withdraw from the Gaza Strip and Sinai. On 16 March 1957, as UN peacekeepers were installing themselves along the frontier, the Israeli forces withdrew, destroying all surfaced roads, all railroad tracks, all telephone lines and all buildings in Egypt's Abū `Agaila and Qusaima, as well as all military buildings around al-`Arīsh. While these practices may have been directed at some sites of (former) military operations, they reportedly did not coincide with the criteria of necessity or distinction, as hostilities ended in advance of those destructive operations.

UN Security Council Resolutions concerning Attacks on Shelters and/or Shelter Seekers

SC101 "strongest possible censure of" Qibya massacre, 24 November 1953
SC106 "condemns" Israel for Gaza raid, 29 March 1955
SC111 "condemns" Israel for raid on Syria that killed fifty-six people, 19 January 1956
SC171 "determines flagrant violations" by Israel in its attack on Syria, 9 April 1962
SC228 "censures" Israel for its attack on al-Samu` in the West Bank, 6 April 1962
S/RES/228 "censures" Israel for attack on Hebron area, 25 November 1966
SC248 "condemns" Israel for its massive attack on al-Karama, in Jordan, 24 March 1968
SC265 "condemns" Israel for air attacks on Salt in Jordan, 1 April 1969
SC270 "condemns" Israel for air attacks on villages in southern Lebanon, 26 August 1969
SC280 "condemns" Israeli's attacks against Lebanon, 19 May 1970
SC313 "demands" that Israel stop attacks against Lebanon, 28 February 1972
SC316 "condemns" Israel for repeated attacks on Lebanon, 26 June 1972
SC332 "condemns" Israel's repeated attacks against Lebanon, 21 April 1973
SC347 "condemns" Israeli attacks on Lebanon, 24 April 1974
SC450 "calls" on Israel to stop attacking Lebanon, 14 June 1979
SC501 "calls on" Israel to stop attacks against Lebanon and withdraw its troops, 25 February 1982
SC515 "demands" that Israel lift its siege of Beirut and allow food supplies to enter, 29 July 1982
SC520 "condemns" Israel's attack into West Beirut, 17 September 1982
S/RES/1544 "condemning" killing, "gravely concerned" about the home demolitions, Rafah, 19 May 2004

The 1967 War

Whatever other pretexts for Israel's 1967 military operations resulting in the acquisition of West Bank, Jerusalem and Gaza Strip territory by force, the Israeli army was unambiguous in its purpose to expel civilian population from the acquired land. In addition to conducting chemical and concussion bombardments, Israeli forces also loaded local inhabitants on trucks and escorted them under guard to the Jordanian border. In the West bank town of Qalqīliya, for example, the Israeli army drove out many families by force after demolishing some 850 (over 42%) of the town's 2,000 homes.⁵¹

After the fighting ended, the Israeli army completely destroyed three villages, inadvertently memorialized through their management by the Jewish National Fund as

“Canada Park,” later named for the Canadian Zionist community’s contributions to JNF at the behest of JNF/Canada President Bernard Bloomfield. Even some dutiful perpetrators of the population transfer operations in the “Lutrūn Salient” have questioned its moral and strategic justifications.⁵²

Ironically, when Canadian journalist Arthur C. Forrest asked permission to visit the three destroyed villages Yalū, Bayt Nūba and Emmaus, in 1967, Israeli military occupation authorities refused his request on grounds that "There isn't any Beit Nuba!"⁵³ Nevertheless, Forrest managed to travel to the devastated area. From survivors whom he asked about the destruction of these villages he learned that Israeli bulldozers demolished houses over the heads of the less-mobile elderly villagers who perished in the rubble.⁵⁴

Reportedly, many other rural and marginalized Palestinians who witnessed the expulsion of villagers in the West Bank also joined the exodus out of fear for a worse fate, the image of which has remained imbedded in their collective memories of 1947–48. Under both direct bombardment and threats of the same, 57% of those escaping or transferred across the Jordan River reported intense Israeli bombardment as their reason for flight.⁵⁵

As Israeli forces swept across the West Bank in 1967, Israeli planes dropped napalm on Palestinian refugees fleeing across the Allenby Bridge into Jordan. By that method, they also depopulated the refugee camp at Jericho, which had held some 65,000 refugees from 1948. The attacks drove thousands across the Jordan River into Jordan. Survivors from the Jordanian Army have testified that Israeli aircraft had napalmed whole field hospitals in the process.⁵⁶

Golan, 1967–

It is generally estimated that Israeli forces expelled 109–120,000 Syrian Arabs from the Syria Golan Heights in 1967. Israel then destroyed their villages (134 in total). That accounts for about 20,000 demolished homes, assuming six people per family unit:

...the Israeli forces withdrew from the town of Quneitra, leaving it in ruins, after having pillaged and laid waste [to] all its structures and facilities as well as its historical monuments. It has been established beyond all doubt that these criminal acts were not the outcome of military operations, but were deliberate and premeditated. The whole town was demolished by means of explosives and the remains were leveled with bulldozers....The Council of the League invites all those who believe in human rights and oppose acts of annihilation to visit the town of Quneitra to see for themselves how Israel has destroyed all its pretensions by its destruction of the houses of this town, in utter disregard for all human values and international norms, laws and resolutions.⁵⁷

Interim incursions in Lebanon, 1970–78

Israel’s first invasion of Lebanon came in 1970, resulting in the killing of some 400 Lebanese and Palestinian resisters and civilians.⁵⁸ By August 1974, Israel had declared a policy of *preemptive* raids, which the Israeli Cabinet officially endorsed in 1979.

Attacks on the Palestine Liberation Organisation bases in border villages became almost daily occurrences. In 1975, with the outbreak of the Lebanese civil war, Israel kept up its military operations mostly in South Lebanon. In March 1978, Israel invaded South Lebanon to “liquidate terrorist bases along the border.” The human consequences of this invasion were tragic. The Lebanese authorities estimated that total Lebanese and Palestinian casualties were 1,168 dead, almost half of them civilians. Thousands of Lebanese had to flee their homes in the south and seek refuge in the poorest suburbs of war-torn Beirut.⁵⁹

On 23 July 1975, at 01:20 hours, Israeli forces crossed the southern Lebanese border near the villages of Kfar Kala and Wādi Hūra, where they demolished two houses and kidnapped seven persons. The names of those kidnapped are: Muhammad `Uqail Hammūd, Asad Muhammad `Uqail Hammūd, Muhammad Amīn `Uqail Hammūd, Musa Musa Shāmi, Ahmad `Ali Na`īm, Nimr Yahya and Musa Raslān. Furthermore, in this operation, Israeli operatives wounded two persons and damaged 29 houses.⁶⁰

In March 1978, Israel's invasion left more than 1,000 Lebanese dead, including 81 killed in al-`Abasīyya, 31 in al-Khiyām and 29, mostly children, in Kunīn. The raids dispersed 260,000 civilians from their homes. Available information is not sufficient to determine their disposition today.

“Peace for Galilee,” 1982

Israeli military commanders had long planned their 1982 invasion of Lebanon with a central purpose of eliminating the Palestine Liberation Organization from Lebanon.⁶¹ The Israeli forces fielded 120,000 men, 1,600 tanks, 1,600 armored personnel carriers, and 600 guns. The Israeli forces advanced toward Beirut in the form of three columns: one along the coast, one in the central region and one to the east. These succeeded forcibly to evict civilians from their homes, towns and villages in the direction of Beirut, after breaking through lines of resistance on the fifth day of the invasion. Along the coast, the Israelis concentrated their strikes along a 25km band from Tyre to Na`mah, south of Beirut. They used helicopter gunships effectively in the central region, and branched out their land assault in the east through the UNIFIL zone toward the Biqa' Valley, with another branch turning westward to converge on Tyre, at the coast.

Israel's invasion in 1982 caused 19,085 deaths and left 31,915 wounded, overwhelmingly civilians. The invasion forces displaced half a million people through their ferocious attack on cities, villages, homes and civilian infrastructure. The advancing Israeli ground assaults, forcing hundreds of thousands of Lebanese civilians ahead of three Israeli military columns, all directed toward south Beirut.⁶² The result was to place those shelter seekers in the line of attack, where Beirut became the principle target of the indiscriminate bombings of housing that followed.

Much of the evidence of Israeli military conduct is recorded in the second section of the McBride Commission report. It demonstrates that the Israeli armed forces violated virtually every norm of the law of war, including the most-fundamental principles of

“military necessity,” “proportionality,” “distinction” and “humanity,” to the most-detailed rules governing the use of specific weapons. The themes of “blanket bombing” of the civilian population and the “incidental” victims of land, sea and air bombardment are extensively covered, reporting the use of implosion bombs, concussion bombs, napalm and other restricted agents against homes and entire apartment blocks.⁶³ According to Lebanese statistics, the Israeli offensive, particularly the intensive shelling of Beirut, caused 18,000 deaths and 30,000 injuries, mostly among civilians.

The Commission rejected on legal grounds Israel's justifications for the great number of civilian deaths. One of the most striking facts emerged when Israeli military service personnel testified that they had received no specific training and instruction on the conduct of war in civilian populated areas. At the time, this was seen as a particularly serious indictment of Israeli military training and planning, and of those who planned the attacks on Sidon, Tyre and other civilian centres.

The 1982 invasion culminated in the Israeli-coordinated massacre at Sabra and Shatīla refugee camps in Beirut. The PLO forces already had withdrawn from the country, leaving Palestinian refugee civilians without institutional and military structures to support them actively or passively. While under Israeli occupation and direct supervision of Gen. Ariel Sharon and Chief of Staff Rafael Eitan, Israeli forces ensured the systematic murder of at least 1,500 unarmed Palestinian civilians between 16 and 18 September.⁶⁴

Occupation Policy in Palestine⁶⁵

A strategic focus of the military occupation of the West bank, Jerusalem and the Gaza Strip has featured the punitive application of house demolitions. This practice generally is understood as a form of collective punishment prohibited in international humanitarian law, it is usually premised on three bases: (1) security demolitions, as retaliation for an actual or suspected act of violence against the occupation, (2) removal as a function of urban planning and (3) demolition for construction without a building permit.

The above table provides a snapshot of the practiced carried out in one year, 1984. That randomly chosen year is not particularly marked by major events such as an uprising or context of wider war, on which occasions instances and numbers increase dramatically.

House Demolitions in the Occupied Palestinian Territory, 1984		
Source	Date	Details
<i>Radio Israel</i>	5 Jan.	Israeli occupation authorities (IOA) demolished three houses belonging to Ahmad Abū Dīab, al-` Abd Abū Dīab and Fawzi al-Kawāni at Silwan and al-` Aizariyya, east of Jerusalem
<i>al-Fajr</i>	12 Jan.	On 11 January, IOA bulldozers demolished the house of Najīb Dīb al-Ja'bari, despite the owner having been granted a building permit by the Hebron Municipality
<i>al-Fajr</i>	13 Jan.	On 11 January, IOA bulldozers demolished three houses in the villages of al-Sammu' and Tarqūmiya, in the Hebron area, belonging to Ibrahīm Salim al-Hawāmda and Isma'il ` Ali al-Mahariya from al-Sammu' and ` Abd ul-Qadir Yūnis Abū Sakkur from the village of Tarqumiya
<i>al-Quds</i>	15 Jan.	IOA demolished a house on the Yatta road belonging to Muhammad Ibrahim Muhammad al-Ja'bari, and another house belonging to Mahmud and Muhammad Sa'id Yūnis
<i>al-Sha'b</i>	16 Jan.	Israeli bulldozers demolished the house of the Khaled Ismail Abu Subayh at Hebron
<i>al-Sha'b</i>	18 Jan.	IOA demolished Fawzi Ahmad ` Ali Khalīl al-Kaswāni's house, Wādi Qaddūh at Ra's al-Amūd, Jerusalem
<i>al-Sha'b</i>	5 Feb.	IOA demolished the house of Isma'il Khalīl Isma'il, at Bayt Ur al-Tahta
<i>al-Fajr</i>	13 Feb.	On 12 February, the Jerusalem Municipality, accompanied by a considerable force of border guards and police, demolished the house of Shahāda Abū Mayyāla in the Wādi Hilwa suburb of southern Jerusalem
<i>al-Fajr</i>	20 Mar.	Israeli Organizing Committee notified the residents of Wādi ` Izz al-Dīn suburb, near Jenīn, of the decision to demolish the buildings they had constructed despite their application for a building permit many years ago
<i>al-Quds</i>	21 Mar.	On the morning of 20 March, Israeli bulldozers demolished the upper floor of the house of Mahmud Salman Muhammad, from the Salāh al-Ta'amrah family, east of Bayt Sahūr.
<i>al-Fajr</i>	14 Apr.	IOA demolished the houses of the families of Palestinians who hijacked an Israeli bus to Khan Yūnis, 13 April 1984
<i>al-Quds</i>	1 May	Occupation authorities demolished the residence of Mrs. Raya Muhammad Ahmad Za'ātarah and her eight sons in the eastern part of al-Sawāhayra
<i>al-Quds</i>	2 May	IOA demolished the house of Hasan ` Abd Ahmad ` Asakira at al-Ta'amrah
<i>al-Sha'b</i>	25 May	IOA demolished three houses belonging to Qāsim, Mājid and ` Ali Muhammad in the Wādi ` Izz al-Dīn area known as al-Wu'ayfat
<i>al-Fajr</i>	5 June	IOA forced Muhammad Hasan al-Rifa', from the village of ` Annāta north of Jerusalem, to demolish his farm at his own expense
<i>al-Quds</i>	5 June	IOA demolished the ` Abd ul-Hadi Muhammad Abu Rīshān's house in al-Hawawīr area, Halhūl
<i>al-Quds</i>	5 June	Occupation authorities demolished house of Sharīf ` Abd ul-Jalīl ` Ali, al-Walājah village.
<i>al-Quds</i>	17 July	On 16 July 1984 morning, Israeli occupation authorities demolished the house of Ayyūb ` Ali al-Munāsra in the town of Bani Na'im
<i>al-Fajr</i>	23 July	On 22 July 1984, IOA demolished Ali Salem' house in Za'tara village, Bethlehem District
<i>al-Quds</i>	26 July	IOA demolished the house of Muhammad Salam Mustafa Suwailim, Dahwah area in al-Zahayriya
<i>al-Quds</i>	7 Aug.	Israeli bulldozers demolished the house of Salmān ` Arab in the al-Salīb district of Jerusalem
<i>al-Quds</i>	25 Sept.	24 September, military authorities demolished four houses in Nūba area
<i>al-Quds</i>	27 Oct.	On 25 October, IOA demolished eight houses in Brūla village, Jordan Valley
<i>al-Quds</i>	2 Nov.	IOA demolished 32 wooden houses that Arab al-Jiftlik residents own, housing ca. 200 persons
<i>al-Quds</i>	12 Nov.	On the morning of 11 November 1984, the occupation authorities demolished the house of Ibrahīm ` Atallah in the village of Bayt ` Askariya.
<i>al-Quds</i>	13 Nov.	IOA demolished the house of Hasan Salam Sulaiman Muhammadain, a member of the al-` Azāzmah tribe and a resident of Nahalīn village
<i>al-Fajr</i>	20 Nov.	19 November Israeli bulldozers demolished the house of Muhammad ` Abd ul-Majīd Humaidan al-Saya'āra in Kharas village
<i>al-Quds</i>	28 Nov.	"The day before yesterday" Israeli bulldozers demolished ` Adnan Muhammad Rajab Abū Sinaina's house at Bi'r ` Isa on the Yatta-Hebron Road.

The continuous practice of house demolitions is variously recorded, but their losses never have been quantified to demonstrate the full consequences for the victims.

Nonetheless, a faithful enumeration is available of the Palestinian home demolitions that Israeli forces have carried out in the occupied Palestinian territory since 1967. The following list (right) is the result of monitoring by the Israeli Committee against House Demolitions.

House Demolitions in oPt, 1967–2006 ⁶⁶	
1967	6,317
1968	140
1969	301
1970	191
1971	2,231
1972	35
1973	34
1974	61
1975	77
1976	24
1977	1
1978	2
1979	18
1980	30
1981	24
1982	35
1983	12
1984	2
1985	44
1986	49
1987	104
1988	587
1989	567
1990	306
1991	307
1992	193
1993	130
1994	153
1995	69
1996	168
1997	257
1998	180
1999	142
Intifada years ⁶⁷	4,747
2005	290
2006	319
Total 18,147	
Total 18,147	

South Lebanon “Demographic” Displacement, 1980s and 1990s

In consolidating its occupation in southern Lebanon, Israel made sure that no single confessional (sectarian) group comprised a majority of the population. It accomplished that through population transfers and forced segregation. One example was the corridor of towns and villages from Jazzīn, which was largely Christian, south toward Marj`ayūn, a mixed Muslim and Christian city. Midway in the corridor is Rihan, once a Shiite Muslim town, which Israeli forces emptied of its residents, replacing them with Christians from al-Zahrāni and the Iqlīm al-Tuffah area.⁶⁸

The South Lebanese Army (SLA), which operates as Israel's surrogate in the self-proclaimed "security zone" in southern Lebanon, also continued to displace Lebanese citizens throughout the 1980s and 1990s as a function of Israel's demographic-manipulation policy. Israeli forces and the SLA also expelled Lebanese residents from the Israeli occupied zone who demonstrated, or whom they suspected of opposition to the Israeli occupation.⁶⁹

Lebanon 1993

Amid effective Hizbullah resistance against Israel's continuing occupation of southern Lebanon, Israel assassinated Hizbullah leader `Abbās Musāwi in a February 1992 helicopter attack. However, when that targeted assassination did not reduce resistance, Israel responded to the undaunted Hizbullah in a military onslaught in the summer of 1993.

Between 25 and 31 July 1993, Israel implemented "Operation Accountability" (a.k.a. "Settling of Accounts," or the "Seven-day War"), targeting Shi'a towns and villages of south Lebanon in the heaviest attack since 1982. In that invasion, Israel ostensibly sought to flush out Hezbollah guerrillas who had carried out Katyusha rocket attacks on northern Israel. However, that operation had four broader objectives:

1. Force the Lebanese government to enter into direct confrontation with the Lebanese resistance in order to guarantee security on Israel's northern border;

2. Pressure Lebanon to sign a separate peace deal with Israel, similar to the 17 May 1983 agreement between Israel and Lebanon, which the Lebanese government cancelled a year later under Syrian pressure;⁷⁰
3. Demonstrate to the Lebanese government that its insistence on respecting the 1949 Armistice Agreement (between Lebanon and Israel) and the strict implementation of UN Resolution 425 were superfluous;
4. Destabilise the civil peace in Lebanon by systematically destroying homes and property, thereby forcing mass movements of the population.

After assessing that a major ground incursion would lead to significant Israeli casualties, Israeli commanders adopted an artillery and aerial bombardment plan with the aim of eradicating the threat posed by Hizbullah and Palestinian guerillas. Meanwhile, pursuing its secondary goal disrupted civilian life and forced the population to flee north with the unfulfilled intention of turning civilians against the Hizbullah.

During the weeklong operation, Israel bombarded thousands of houses and buildings resulting in 300–450,000 civilians displaced from southern Lebanon toward Beirut and other areas.⁷¹ That wave included nearly all of the inhabitants of Tyre, one of Lebanon's major cities. Israeli forces also destroyed Lebanese infrastructure and civilian targets such as major electricity stations and bridges, and failed to take adequate measures to minimise civilian casualties, and may have used weapons inappropriate for the environment.⁷²

Journalists in Lebanon reported that 90 percent of the 80,000 inhabitants of Tyre joined the flood of refugees northward, with most casualties and destruction of civilian dwellings having taken place under Israel's intensive bombardment. Israeli artillery was "pounding shells repeatedly and devastatingly into selected houses," in response to any movement inside or outside.⁷³ An Israeli army spokesperson announced that "70 percent of the village of Jibshīt is totally destroyed, its inhabitants will not recognize it." Another senior Israeli officer added that the goal was "to wipe the villages from the face of the earth."⁷⁴ Israeli forces killed 125 civilians and destroyed much of south Lebanon's civil infrastructure in that operation.

Qana, Lebanon, 1996

Israeli Prime Minister Shimon Peres launched "Operation Grapes of Wrath," in April 1996, repeating the Operation Accountability model of population transfer. Reportedly, some families who had evacuated during the 1993 Operation Accountability refused to repeat the ordeal, while others left and merely resented the Israelis' order to leave their homes. However breaching humanitarian obligations to protect civilians, throughout Operation Grapes of Wrath, Israeli political and military officials clearly enunciated that Lebanese civilians would bear responsibility for their own deaths if they remained in towns and villages in south Lebanon that they or their South Lebanon Army allies ordered evacuated.⁷⁵

The invasion of 1996 explicitly targeted civilians, according to statements at that time by Israeli Prime Minister Shimon Peres. Israeli Defense Official Yitzhak Bailey wrote in *Ha'aretz* in 1995, "Unfortunately, the only way to stop Hezbollah actions against the Israeli forces in south Lebanon is to inflict heavy blows on the passive population.... Then Hezbollah would be loathed."⁷⁶ Major-General Amiram Levine declared: "The residents in south Lebanon who are under the responsibility of Hezbollah will be hit harder, and the Hezbollah will be hit harder, and we will find the way to act correctly and quickly."⁷⁷

Evidence indicates that Israeli forces were carrying out "indiscriminate and disproportionate attacks" against civilians in what became virtual "free-fire" zones across large parts of south Lebanon. A "strong protest" came from the UN when Israeli "planes had dropped bombs in front of a clearly marked two-vehicle UN convoy transporting essential items to refugees taking shelter in and around UN positions."⁷⁸

On 15 April, Israeli aircraft rained down over 700 shells and 30 air-to-surface missiles and bombs in a four-hour period.⁷⁹ Journalists were unable to investigate the destruction in villages near Tyre "because of the intense bombing and shelling," On 16 April 16, residents who had fled nearby villages reported: "It's random shelling.... They are sparing nothing. They are hitting homes and fields and civilians." One fleeing resident testified that up to one hundred shells, bombs and rockets were landing every hour in the village of Mansūri, reporting that "about 20 big guns" were overlooking the village and "firing incredibly fast."⁸⁰

On 18 April, an Israeli strike on a village near Nabatīyya destroyed a building, killing a woman, her seven children and a cousin. A few hours later, Israeli artillery shells hit the makeshift refugee compound at the UNIFIL post at Qana, some ten kilometers southeast of Tyre, killing over 100 displaced civilians and wounding over 100 more, all of whom had fled their homes to seek shelter in the UN compound.

Franklin van Kappen, the UN Secretary-General's military adviser, investigated the apparently deliberate attack on the refuge and concluded: "It is unlikely that the shelling of the United Nations compound was the result of gross technical and/or procedural errors."⁸¹ Despite the indicting conclusion, the Israeli Prime Minister Shimon Peres' responded by saying: "In my opinion, everything was done according to clear logic and in a responsible way. I am at peace."⁸² Following the Qana massacre, one soldier told the Israeli newspaper *Kol Hair*, "The battery commander gathered us all and told us that this was war and that we had to continue firing like the great fighters that we are. Hezbollah entered a village in which there were some Arabs, but that was their problem. One more Arab, one less Arab, you know."⁸³

Targeted Assassination at Home, Gaza, 2002

At approximately midnight on 22 July 2002, an Israeli fighter jet dropped a 1-ton bomb on the densely populated al-Darraj neighborhood of Gaza City. Israeli spokespersons later admitted that the main target of the attack was the family home of Salāh Shehāda,

commander of the military wing of Hamas. The bomb killed Shehāda and an additional seventeen civilians, including his wife, his daughter, eight children (including a 2-month-old baby), two elderly men, and two women. In the neighbourhood, the bombing injured an additional 77 persons, completely destroyed 11 houses and damaged another 32, leaving families homeless.

The Government of Israel confirmed that it was fully aware that Shehāda's wife and daughter "[w]ere close to him during the implementation of the assassination...and there was no way out of conducting the operation despite their presence."⁸⁴ Israel more commonly carries out extrajudicial killings against vehicles. However, the official targeted killings of "wanted persons" is particularly reckless in the targeting of homes in urban areas, which the state repeatedly has used across the occupied Palestinian territory and in Lebanon.

Targeting Homes in Gaza, 2004

According to the human rights organisation Al Haq, the Israeli military totally or partially demolished an estimated 100 Palestinian homes in the Gaza Strip from 10 to 14 May 2004, leaving 1,160 Palestinians homeless. It was also reported that at least 30 Palestinians died in Israeli attacks over that period. According to field reports, Israeli forces killed 15 Palestinians in the morning of 18 May 2004, when they launched a new attack as part of the ongoing military "Operation Rainbow." According to the Palestinian Human Rights Monitor Group reported that the Israeli forces killed 56 Palestinians in the course of the week, among them were 14 children under the age 18.⁸⁵ Israeli troops also destroyed about 100 houses in the Rafah Refugee Camp, and officials said hundreds more may be torn down. UN agencies reported that some 2,197 people have lost their homes to Israeli demolitions in the first 15 days of May.⁸⁶

On 16 May 2004, Chief of Staff Moshe Ya'alon said that the Israeli army would widen the Philadelphi Route (along the Gaza-Egypt border) by demolishing houses in Rafah, which decision followed a High Court of Justice ruling on the same day that permitted the army to demolish Palestinian homes without granting residents a right of appeal, if this is dictated by "immediate operational necessity," or the need to protect soldiers' lives.⁸⁷ On 14 May 2004, 13 people whose homes were destroyed had appealed to the Israeli Supreme Court to stop the demolitions in the refugee camps in the south of Rafah, and on 18 May, 45 others petitioned the Court unsuccessfully against the threat of destruction of their homes.

The former head of the Israeli army's southern command for Gaza, Colonel Yom Tov Samya, also stated that Israel's house demolitions policy was an end in itself, not a by-product of a search for tunnels or resistance fighters. In October 2003, he said "The IDF [Israeli Defence Force] has to knock down all the houses along a strip of 300 to 400 metres [wide]. It doesn't matter what the future settlement will be, this will be the border with Egypt."⁸⁸

On 19 May 2004, the UN Security Council adopted resolution 1544 (2004), condemning the killing of Palestinian civilians in the Rafah area, and expressing grave concern over the recent demolition of homes committed by the occupying Power in the Rafah Refugee Camp. It called upon Israel to respect its obligations under international humanitarian law, and insisting, in particular, on Israel's compliance with its obligation not to undertake demolition of homes contrary to that law.⁸⁹

Later in the year, on 28 September 2004, columns of Israeli tanks, bulldozers and armoured personnel carriers moved into northern Gaza from their permanent bases in the nearby Nissanit settlement into the Erez Industrial Zone and Gaza's eastern Border, tearing up roads and flattening homes and crops along their way. Israeli army units established strategic positions on high ground overlooking Jabāliya, Izbat Bayt Hanūn and Bayt Lāhiya. Israeli troops also deployed along the main road between Jabāliya Refugee Camp and Bayt Hanūn, and on the northern and eastern sides of Jabāliya Refugee Camp. Israel announced its Operation "Days of Penitence" to prevent the firing of homemade Palestinian rockets into the Israeli settlement of Sderot, which had killed four Israeli citizens over preceding months.

Over the next 17 days of Operation Days of Penitence, the Israeli army remained in control of northern Gaza, with some 200 armoured vehicles deployed in towns, villages and densely populated refugee camps. Those forces launched regular raids into civilian areas, firing on Palestinian targets from the air and ground, sealing off Palestinian neighbourhoods and restricting movement of civilians and humanitarian/emergency relief workers. Tanks leveled large swaths of agricultural land and caused widespread damage to public and private property, including homes, schools, commercial establishments and public infrastructure. Israeli bulldozers dug deep trenches across several main roads, severing sewage, water and electricity lines. Many thousands of civilians were prevented from leaving their homes as fighting raged around them, while some 4,000 persons managed to flee their homes in the affected areas.

At the time of their redeployment on 15 October, Israeli forces killed 107 Palestinians over one-third of whom were civilians,⁹⁰ including 27 children, and injured over 431.⁹¹ Even after the Israeli government announced that the operation was ending, Israeli troops moved into the town of Bayt Hanūn and ordered people from their homes, apparently in order to carry out fresh demolitions.

The military operation's principal effect was to punish hundreds of thousands of Gaza's civilian residents for the Hamas rocket attacks, making 675 Palestinians homeless by destroying 91 homes belonging to 143 families. Over 90 percent of those affected already were refugees. The total cost of rebuilding those homes stood at around US\$2.5 million. A further 101 homes (housing 833 persons) sustained damage. The majority of homes destroyed were on the eastern edge of Jabāliya Refugee Camp, close to Block 4. This was the most intense house demolition operation in northern Gaza since the start of the al-Aqsa Intifada (2000).⁹²

July War on Lebanon, 2006

As a response to a Hizbullah raid on an Israeli border patrol, Israel's Operation "True Promise," began on 12 July 2006. The Israeli air and ground invasion left nearly one million Lebanese displaced until military operations ended on 14 August 2006. Of those displaced persons, an estimated 735,000 sought shelter within Lebanon, and 230,000 took refuge in neighbouring Syria, Cyprus, Jordan, the Persian Gulf states and beyond. As many as one-half of the displaced were children. Of those within Lebanon, approximately 135,000 sought shelter in schools, and over 600,000 resided with host families. Within hours of the end of hostilities on 14 August, the displaced began returning in large numbers.⁹³

This took place in Lebanon's special demographic context, where many people already had been displaced as a result of previous conflicts, and communities still were in the process of recovery and rebuilding. The numbers presented here also include secondary displacement of approximately 16,000 Palestinian refugees within Lebanon.

The available evidence indicates that the single greatest cause of civilian deaths were due to Israel's attacks on civilian homes.⁹⁴ The air war had a greater impact on the civilian population than the Hizbullah-stifled ground invasion. Israel used air, naval and army forces simultaneously, flying some 15,500 sorties that attacked more than 7,000 targets across Lebanon.⁹⁵ The Israeli navy conducted over 2,500 bombardments of targets within range of the Lebanese coast. The army fired tens of thousands of artillery shells and multiple launch rockets.⁹⁶

Of the 1,191 Lebanese whom the Israeli forces killed, most were civilians. Significant to the phenomenon of targeting shelters and shelter seekers, the alleged 56 massacres that Israel conducted in the July War include at least 42 cases of the demolition/destruction of homes and other shelters (see table below). Of the known casualties, at least 454 died in homes and other shelters that were not proved to be valid military targets. While, in those Israeli attacks, more than 280 have been recorded as injured, the true and likely much larger number remains unknown.

By that conduct, the Israeli military violated the principle of distinction between military and civilian targets, as well as the principle of proportionality, and the prohibition of indiscriminate attacks.⁹⁷ Israel's destruction of homes and other shelters, as well as the general destruction of civilian areas, including entire villages, have resulted in grim consequences for human life, housing and health, and have caused grand-scale internal and cross-border displacement.

In its cluster-bomb strikes on built-up and residential areas, Israel's maintains the position that such affected areas were the site of Hizbullah fighters seeking the cover of civilian populations to achieve immunity from treatment as a legitimate military target. In its field research at Qana, Srifa, and Tyre, Human Rights Watch reportedly found:

No evidence that there had been Hizbullah military activity around the areas targeted by the IDF during or just prior to the attack: no spent ammunition, abandoned weapons or military equipment, trenches, or dead or wounded fighters. Moreover, even if Hizbullah had been in a populated area at

the time of an attack, Israel would still be legally obliged to take all feasible precautions to avoid or minimize civilian casualties resulting from its targeting of military objects or personnel. In the cases documented in this report, however, the IDF consistently tolerated a high level of civilian casualties for questionable military gain.⁹⁸

Israeli-conducted Massacres of Lebanese Civilians by Destruction of Homes and Shelters, July–August 2006					
No.	Location	Region	Date	Killed	Wounded
1	Aytarūn (1)	Bint Jubayl	12 July	11	unknown
2	Dwayr	Nabatīyya	13 July	12	unknown
3	Zibkīn	Tyre	13 July	12	unknown
4	Shahūr	Tyre	13 July	7	unknown
6	Civil Defense Building	Tyre	16 July	12	50
7	Abbasīyyah Crossroad	Tyre	16 Jul	13	unknown
8	al-Burj al-Shamāli	Tyre	16 July	5	8
9	Aytarūn (2)	Bint Jubayl	17 July	13	unknown
10	Shmays	Shhīm, Mount Lebanon	17 July	5	10
11	Srīfa	Tyre	night of 18–19 July	more than 35	30
12	Aynātha	Bint Jubayl	night of 18–19 July	4	5
13	Nabatīyya (1)	Nabatīyya	19 July	5	5
14	Nabi Shīt	West Biqa`	19 July	8	3
15	Tyre (2)	Tyre	19 July	20	unknown
16	Nabatīyya (2)	Nabatīyya	25 July	7	unknown
17	Haddātha	Bint Jubayl	28 July	6	unknown
18	Kfar Jawz	Nabatīyya	28 July	6	unknown
19	Dayr Kanūn Nahr	Tyre	28 July	4	unknown
20	Yatar (2)	Bint Jubayl	28 July	4	unknown
21	Numayrīyyah	Nabatīyya	29 July	7	unknown
22	`Ayn `Arab	Biqa` Valley	29 July	6	3
23	Yarūn	Bint Jubayl	30 July	6	unknown
24	New Qana	Tyre	30 July	100+	at least 9
25	Hallūsīyyah	Tyre	31 July	more than 13	unknown
26	Harīs	Bint Jubayl	31 July	16	unknown
27	Luwayzah	Iqlīm Tuffāh	01 August	5	1
28	Ma`rub	Tyre	01 August	5	unknown
29	Taybah	Marj`ayūn	04 August	7	10
30	`Ayt al-Sha`ab	Bint Jubayl	04 August	10	unknown
31	Ansār	Nabatīyya	06 August	5	10
32	al-Jubbayn	Tyre	06 August	4	unknown
33	Hūla	Marj`ayūn	07 August	5	unknown
34	Ghasanīyyah	Sidon	07 August	8	unknown
35	Ghazīyah (1)	Sidon	07 August	21	30
36	Kfar Tabnīt	Nabatīyya	07 August	5	18
37	Brital (1)	Biqa` Valley	07 August	14	31
38	Shīyyah	Beirut southern suburb	07 August	20	30
39	Mashgharah	Biqa` Valley	09 August	8	unknown
40	al-Haysa	Akkār, North Lebanon	11 August	12	15
41	Ruways	southern Beirut suburb	13 August	15	unknown
42	Brital (2)	Biqa` Valley	13 August	13	22

Source: Lebanese Higher Relief Council (15 September 2006), at: <http://www.lebanonundersiege.gov.lb/english/F/Info/Page.asp?PageID=130>.

Israel has counter-accused Hizbullah of having used the civilian population as human shields in Beirut's southern and eastern suburbs and of towns and villages in southern

Lebanon.⁹⁹ Israel stated that, for both pragmatic and legal reasons, it had limited its military conduct in fighting Hizbullah.¹⁰⁰ The Israeli military explained that its practice always involved the advice of an Israeli military expert in humanitarian law reviewing the lists of potential targets and the type of weapons used. Thus, various Israeli targeting decisions apparently operationalised the knowing and deliberate rejection of international humanitarian law (IHL) norms.

In its assaults on south Beirut and south of the Litani River, Israel did make extensive use of leaflets dropped from the air¹⁰¹ and even telephone calls to warn civilians of impending attacks, as it is obliged to do, unless circumstances do not permit.¹⁰² Certainly, that practice saved some lives. However, contradictory and incompatible practices undermined the putative humanitarian effect of those warnings. For example, some of the leafleted warnings stated that, “[a]ny vehicle of any kind traveling south of the Litani River will be bombarded, on suspicion of transporting rockets, military equipment and terrorists.”¹⁰³ Israel, thus, formally abdicated its responsibility to distinguish between combatants and civilians. Moreover, the numerous reported cases of Israeli forces subsequently firing on fleeing civilians cast grave doubt on Israel’s claim to have met its humanitarian and human rights law obligations.¹⁰⁴

While warnings are required for the benefit of civilians, the civilians are not obligated to comply with them. A civilian’s failure to evacuate can be due to a combination of personal and/or environmental factors. In Israel’s July 2006 war on Lebanon, the fact that a civilian remained in place may result from the dearth of options, including those arising from the attacker’s (1) refusal to apply the principle of distinction, (2) prevention of movement and (3) denial of humanitarian access. In any case, a civilian’s decision to stay put does not diminish that noncombatant’s IHL protections.

Statements by some Israeli officials further undermine the claim of its forces’ intent to adhere to humanitarian and other binding norms. For example, well into the war in late July, then Minister of Justice Chaim Ramon reportedly asserted that, “in order to prevent casualties among Israeli soldiers battling Hizbullah militants in southern Lebanon, villages should be flattened by the Israeli air force before ground troops moved in.”¹⁰⁵ Israeli Defence Minister Amir Peretz explained: “We’re skipping the stage of threats and going straight to action. The goal is for this incident to end with Hizbullah so badly beaten that not a man in it does not regret having launched this incident.”¹⁰⁶

Beyond contradictory statements of intent, Israel’s actual breaches fall into three broad categories of crime:

- A consistent refusal to distinguish Hizbullah fighters from civilians, including civilian members of Hizbullah,¹⁰⁷ and targeting humanitarian activities and facilities;
- Targeting entire categories of dual-use objects as legitimate military objectives;¹⁰⁸ and

- “Reckless, perhaps even deliberately reckless, use of cluster munitions.”¹⁰⁹

The principles of distinction and proportionality

One official Israeli analysis found that the attacking State premised its policy and practice upon the permissibility of targeting the whole of Hizbullah’s infrastructure, which extends well beyond military structures and defies the principle of distinction. An Israeli military source has explained that:

Targets belonging to the Hizbullah infrastructure [that] support the terrorist-operative apparatus in the Shi’ite neighborhoods of south Beirut (e.g., Dahiya) and other locations in Lebanon [include]: headquarters, offices, buildings serving Hizbullah’s various branches, leaders’ residences and the bunkers they are hiding in, as well as the organization’s “information” infrastructure (al-Manār TV) and offices of the organization’s social and financial infrastructure.”¹¹⁰

Israeli Minister of Justice Chaim Ramon: "These places are not villages. They are military bases in which Hizbullah are hiding and from which they are operating...All those now in south Lebanon are terrorists who are related in some way to Hizbullah."

Patrick Bishop. "Diplomats argue as all of south Lebanon is targeted," *Telegraph* (28 July 2006).

In south Lebanon, the Israeli forces destroyed thousands of buildings and damaged thousands more. Israel officials have declared that their gunners targeted Lebanese buildings in the “air war” primarily on the basis that they served as launching or storage sites for rockets or other materiel, or because that they presumably housed Hizbullah fighters. However, when UN Special Rapporteurs jointly inquired during their invited mission to Israel, military officials there did not provide any indication of the military object of building, except for sample images of missile launches from buildings in south Lebanon.¹¹¹ However, as the Special Rapporteurs noted, that did not justify Israel’s destruction of many hundreds of civilian homes and civil infrastructure across South Lebanon or in more distant areas of the country. In the absence of information confirming Israel’s claims, it is not possible to consider that its actions of mass destruction meet the criteria of necessity or proportionality.

*Destruction and damage to homes and other shelters*¹¹²

The consensus emerging from diverse sources sets the number of partially or completely destroyed housing units at more than 29,000.¹¹³ Some 15,000 of those are completely destroyed, in addition to 60–65,000 homes variously damaged.¹¹⁴ The concentration of housing destruction, as with other forms of deprivations, vary. Residential units destroyed in south Beirut numbered about 6,000. The southern village of Yahmūr suffered the destruction of some 250 homes.

Reported Attacks on Settlements, Roads and Bridges, as of 28 July 2006

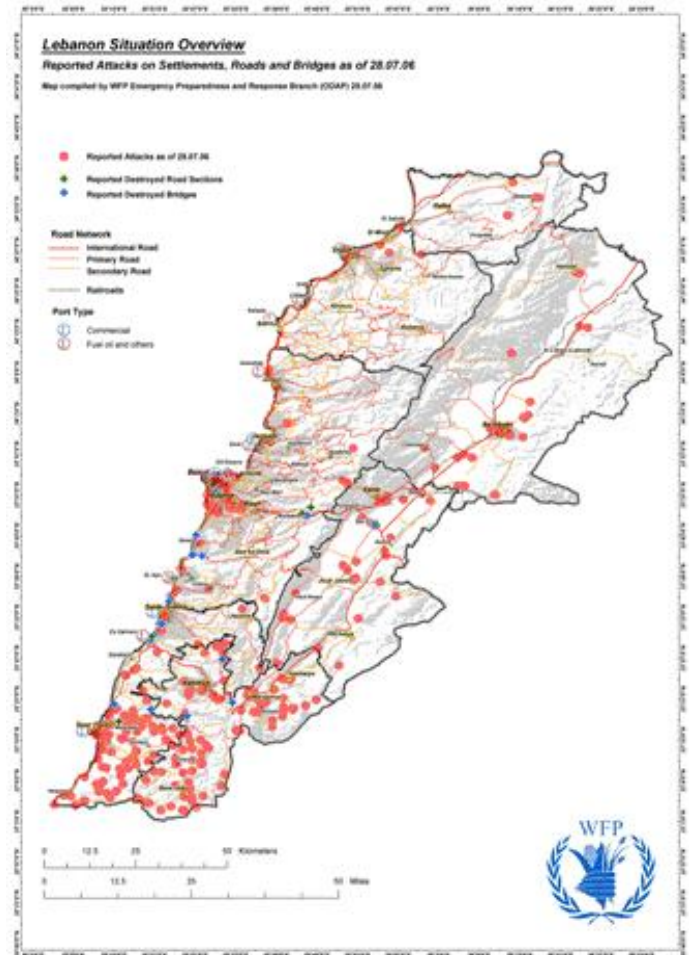
The level of destruction varies from village to village, town to town. The village of Farshūba was particularly hard hit. While Shi'a communities were Israel's obvious targets, in the Khiyām region, for example, Israeli forces also bombed and shelled Christian villages, which locals had presumed were not going to be Israeli targets. The Israeli aggression destroyed some 30–40 villages completely.

Preliminary estimates indicated that Israeli forces severely damaged or destroyed between 15,000 and 30,000 homes (expressed as "housing units"). They completely destroyed some 60% of all homes in Bint Jubayl and Khīyām.

The district of Bint Jubayl witnessed the heaviest bombing, with around 200 multiple-use and residential buildings completely destroyed in Beirut's southern suburbs (*al-Dhāhiya*). The destruction rendered an additional 100 buildings uninhabitable and in need of demolition. A large proportion of the destroyed housing units also are located in the Biqa` Valley (eastern Lebanon). The combined displacement remains at 256,714 individuals. Most of these displaced persons reportedly are living with relatives and friends, resulting in increased density for all, including the host families, and placing a financial burden on hosts with limited financial and other resources.¹¹⁵

Israeli bombing destroyed about 150 apartment buildings and damaged approximately the same number in the residential *al-Dhāhiya* (suburban) section of south Beirut, especially Harat Hurayk. Because of the preemptive evacuation of so many of the 30,000 to 60,000 persons normally housed there,¹¹⁶ the loss of life from the Israeli bombing there was limited. However, the untold material losses of housing, service infrastructure and livelihood have been extensive.

Israel has claimed that each building that it destroyed in *al-Dhāhiya* counted as a legitimate military target. However, when given the chance to substantiate that claim during the joint mission of four UN Special Rapporteurs to Lebanon and Israel in September 2006, Israeli military officials failed to offer any substantiation of their claim.¹¹⁷ Israeli officials had claimed that Hizbullah fired rockets from residential



buildings, thus grounding their assertion that Hizbullah abused civilian objects in its military operations. The UN Special Rapporteurs found, however, that that does not serve as a dispositive justification for the destruction of hundreds of civilian houses in South Lebanon, nor other distant houses or infrastructure.¹¹⁸ Israel still bears a burden of proof to demonstrate that its attacks on homes, affecting 130,000 households, did not violate the principles of distinction, necessity and proportionality, as well as the prohibitions against indiscriminate attacks and illicit use of weapons of war.

In order to validate its assertion of destruction of homes and other shelters as legitimate military objects, Israel's military would have to provide reasons for which it targeted specific houses and villages, the time lapse between Hizbullah's alleged firing of a rocket from a house or village and the Israeli military attack on that site, and the Israeli army's estimate of civilian presence in and around the target at the time of the strike. In the absence of such information, Israel's widespread targeting of civilian homes remains, *prima facie*, incompatible with the minimum standards of international humanitarian law.¹²⁰

Cumulative Destruction of Private Houses/ Apartments (as of 29 September 2006)¹¹⁹	
Degree of destruction	Units
Destroyed	30,000
Major damage	30,000
Minor damage	70,000

Throughout the conflict, Israel regularly dropped leaflets across Lebanon warning the population to flee ahead of air strikes, although, in some cases, people were unable to leave their homes, notably in southern Lebanon, for reasons including the destruction of bridges and roads, or because they lacked transport or were physically unable to flee.¹²¹ Meanwhile, as the resulting pattern shows, those who sought to flee became particular objects of Israel's airborne bombardment of the country.

Violations as forced eviction and homelessness

Resulting from Israel's destruction and forced displacement of civilian areas, some 970,000 internal refugees moved to alternative shelter throughout the country and beyond. An estimated 200,000 lived for 30 days sequestered in schools, with several families to each room. Seeking shelter with relatives and friends was a frequent option that affected all inhabitants, as density reportedly has reached up to 40 persons in a single-family apartment in many cases.

The resulting displacement afflicted Lebanese civilians in multiple ways: lack of shelter due to exposure to unexploded ordnance (UXOs) and the loss of employment and livelihood. Since the cessation of hostilities, an estimated 500,000 internally displaced survivors returned to their areas of residence, and an additional 150,000 individuals were reported to have returned from outside the country within two months after the war. An estimated 60–70% of those returned to their villages of origin, particularly in the areas of Tyre, Marj'ayūn, Nabaṭīyya, and Bint Jubayl. Many lived in their partially destroyed houses not suitable for habitation. Indeed, the war led to the total or partial destruction of around 30,000 housing units.¹²²

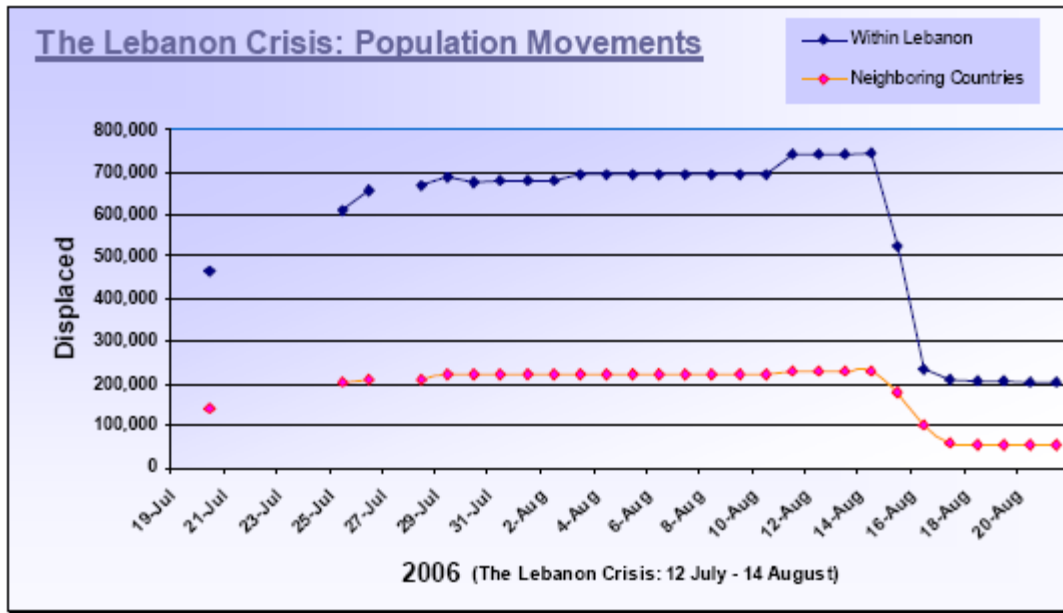
The proportion of civilian casualties on both sides of the conflict is without comparison. Israel began its assault on Lebanon by targeting homes. In the case of *al-Dhāhiya*, Hizbullah insists that it maintained no missiles or military installations of any kind in that largely destroyed quarter of Beirut. Indeed, the pattern of bombing suggests the targeting of “social infrastructure” of Hizbullah and the very communities that support—and depend on—it.¹²³

Respondents observe that no sectarian group was spared the destruction. The Israeli devastation of Lebanese infrastructure across the country is one manifestation of that fact. Significantly, the forced exodus of civilians in Marwahīn (subject of the massacre of 15 July 2006) were Sunni, not Shīʿa, the acclaimed demographic subject of Israel’s invasion.

Of the reported 970,184 displaced Lebanese resulting from the conflict, some 256,714 remained displaced, and an estimated 3,000 were still without any shelter at all in September 2006.¹²⁴ By 31 July 2006, available statistics showed that 124,718 displaced persons had taken refuge in 761 schools around the country.¹²⁵ By 9 September 2006, 27 days after the ceasefire, 255,794—approximately 26% of all displaced persons—remained homeless or unable to return to their home.¹²⁶

Continued Postconflict Displacement (as of October 2006)		
Destination	Displaced	Location
Schools	794	Sheltered in 22 schools and institutions
Unallocated	200,000	Sheltered with families, friends, churches, mosques etc.
Neighboring countries	55,000	Syria, Jordan, Cyprus, and Gulf states.
Total	255,794	

As a consequence, the *Jihād al-Bina’* organization, responsible for postoccupation and postwar reconstruction, estimated that Israeli forces had destroyed 5,000 housing units completely in *al-Dhāhiya*, and causing some level of damage to 17,000. Presently, 14,000 families are without homes in *al-Dhāhiya*, equaling over 60,000 affected persons.¹²⁷



Source: UN OCHA, 31 August 2006.

*Targeting Lebanese Shelter Seekers*¹²⁸

The massive forced eviction and displacement of civilians from their homes figure as prominent features of Israel’s war strategy in the July War. Tactically, Israel argues that such migration of civilians is consistent with international humanitarian law requirements to ensure civilians’ safe removal from the field of combat. By its own admission, particularly in the form of warning pamphlets (as noted above), Israel then proceeded to treat civilians in flight as “dual use” objects of attack.

The unfolding pattern of Israeli military conduct, however, manifested more than a dismissive failure to protect civilians. In notable cases repeated across the south of Lebanon and south Beirut during the July War, Israeli bombers targeted civilians in their known places of refuge.

Notably also, on 15 July 2006, villagers from Marwahīn left the area in a convoy, in part because they feared that Israeli forces would attack the area because of its proximity to a Hizbullah weapons store. Reportedly, Israeli helicopters fired two rockets at a white pickup and a passenger car in the convoy of fleeing civilians between the villages of Shama` and Biyādha, killing 21 civilians. Investigators found no evidence to suggest that Hizbullah fighters were near the civilian convoy when the Israeli military struck. The aircraft then returned to attack the UN personnel who arrived to retrieve the lifeless victims’ bodies.¹²⁹



Harat Hurayk quarter of south Beirut before and after the Israeli bombings.
Source: Digital Globe

In that latter attack, at 23:15, Israeli warplanes struck two clearly marked Red Cross ambulances with Red Cross flags illuminated by a spotlight mounted on the ambulance. The humanitarian vehicles were transferring three wounded Lebanese civilians from one ambulance to the other when the Israeli air force struck. A missile hit one ambulance directly, and a warplane returned to a few minutes later and struck the second ambulance. The Israeli strikes wounded all six of the Red Cross workers, and further injured the three patients they were treating. One of the patients, a middle-aged man, lost his leg in the ambulance strike, while the Israeli attack also partially paralyzed his elderly mother. The third patient, a young boy, received multiple shrapnel wounds to the head.¹³⁰ Although this Israeli attack did not target a home, as in so many other cases throughout the war, it nonetheless targeted a specific category of shelter seekers and, thus, constitutes a war crime based on the charge of breaching the IHL prohibition against “attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations.”¹³¹

Qana, 2006

The most-reported case of Israeli targeting of shelter seekers is its attack at Qana, 30 July 2006. Amid increasing calls for a ceasefire,¹³² the Israel air force attacked an already-damaged three-storey building in the small community of al-Khuraybah, near the South Lebanese village of Qana. The building collapsed, burying a large number of Lebanese refugees sheltering inside. The Israeli attack killed 28 shelter seekers,

including 16 children, with 13 people reported missing.¹³³ The dead ranged in age from nine months to 75 years of age and included members of the Hashim and Shalhūb families, who had used the apartment building as a shelter. Local residents dug through the rubble by hand, searching for survivors, at least some of the bloodied bodies of women and children were wearing nightclothes. Head of Israeli Air Force Headquarters Brigadier General Amir Eshel later told journalists at the Defense Ministry in Tel Aviv that the Israeli-bombed building had collapsed several hours after the airstrikes, and accused Hizbullah of causing the collapse.¹³⁴

Following a quick Israeli military investigation of the widely reported incident, on 2 August, Israeli Chief of Staff Dan Halutz summarized the unpublicized report, making no explicit claim of responsibility for the casualties. He claimed only that "the building was *adjacent* to areas from which rockets had been launched toward Israel" [emphasis added]. In his statement, he also accused Hizbullah of using "human shields."¹³⁵ However, according to Human Rights Watch:

None of the dozens of international journalists, rescue workers and international observers who visited Qana on July 30 and 31 reported seeing any evidence of Hizbullah military presence in or around the home. Rescue workers recovered no bodies of apparent Hizbullah fighters from inside or near the building.¹³⁶

Israel's ambassador to the United Nations Dan Gillerman called the dead "victims of Hizbullah."¹³⁷ Some Israeli sources denied the very facts of the massacre, asserting that it was a mere hoax staged to elicit anti-Israeli sentiment.¹³⁸

On 11 August 2006, the IDF attacked a convoy of approximately 759 vehicles containing Lebanese police, army and civilians. UNIFIL has formed the convoy at the request of the Lebanese government, in order to facilitate the evacuation of its (noncombatant) troops from the Marj `Ayūn army base after Israel took over the base on 10 August. After coordinating with the Israeli army on the route the convoy was to take through the west Biqa`a Valley to Beirut, UNIFIL organized the convoy of Lebanese Joint Security Forces, Internal Security Forces and 365 civilian vehicles. At 22:00 hours that evening, the Lebanese government informed UNIFIL that the Israeli aircraft had attacked the convoy¹³⁹ with eight to nine bombs, leaving six people dead and 32 wounded, including a Lebanese Red Cross volunteer as he was assisting a wounded person.¹⁴⁰

The Israeli military responded to international outrage, claiming that, while they had originally authorized the convoy movement, they subsequently denied the request, because, on 11 August 2006, they "identified suspicious movement along a route forbidden for travel..."¹⁴¹ Moreover, the IDF claimed that, while they recognized that the convoy was, in fact, the UNIFIL convoy, based on UNIFIL confirmation, the departure was not authorized.

Meanwhile, in Gaza

On 12 July 2006, at approximately 02:45, Israeli war planes targeted a two-storey home in a highly densely populated area of Gaza area, totally destroying the house and killing Dr. Nabīl `Abd al-Latīf Abū Slaima and eight members of his family, and injuring 37, three critically. In addition, the attack partially destroyed ten nearby houses.

The lone survivor, `Awad Nabīl `Abd al-Latīf Abū Slaima, 19, reported that the persons inside the house killed at the time of the attack included:¹⁴²

1. Nabīl `Abd al-Latīf Abū Slaima, 46
2. Salwa Abū Slaima, 42
3. Basma Nabīl Abū Slaima, 16
4. Somaia Nabīl Abū Slaima, 14
5. Huda Nabīl Abū Slaima, 12,
6. Iman Nabīl Abū Slaima, 11
7. Yahia Nabīl Abū Slima, 9
8. Aya Nabīl Abū Slaima, 7
9. Nasr Allah Nabīl Abū Slaima, 4

Most of the injured were buried under the rubble and others were wounded with bone shrapnel flying from the bodies of the victims of the attack. Isra' Muhammad `Abd al-Ghaffār `Abbās, 3, was injured by bone shrapnel in the head. Further, Hussām Muhammad Hammād, 7, survived after he was removed from under the debris.

The Israeli army claimed that the attack was targeting Hamas members.

Conclusion

The foregoing pattern of military actions targeting civilian homes, shelters and shelter seekers forms a continuum of Israeli practice that is traceable to the state's establishment in 1948. That pattern remains constant up to the time of Operation Cast Lead, in 2009. In Lebanon, the pattern emerged vividly also in the Israeli invasions in 1982, 1993, 1996 and 2006, as well as Syria, in 1967. Operation Cast Lead in Gaza only represents the most-recent iteration of a rigidly consistent military practice.

The official statements that accompany these actions also are revealing. They seem to reflect a presumption that any source of brutality against the indigenous inhabitants would convert the victims into agents of the attackers preferred outcome: defeat of the resistance. In Lebanon, the objective was to turn the population against Hizbullah. Two years later, in the Gaza Strip, Israel announced its goal to turn the local population against their own elected government. Such ideological assumptions already have proved consistently false and gratuitously destructive, particularly while the measures to serve that end apply a military doctrine that calls for attacks on civilian homes, shelters and shelter seekers.

The Israeli military's urban warfare doctrine, since occupying East Jerusalem (1967) and battling in Suez City and Qantara, Egypt (1973), envisioned two types of offensive:

one in which armor leads, and the other in which armor supports infantry. The Israeli army's reliance on armour favoured the former technique, except when towns proved too difficult to take with armour. The armoured-warfare bias meant that Israeli urban-warfare doctrine compensated for insufficient infantry levels necessary for urban operations in Lebanon.

The slow house-to-house in the Battle of Tyre (1982) may have led to decisions to rely instead on attacking urban targets from the air. Israeli ground forces often sought ways around prohibitions against harming civilians with their use of heavy weapons, especially from the air, and especially targeting cities.

When the ground forces met stiff resistance, the commanders called for an air strike. That way, too, Israeli ground forces plausibly could claim to observe the letter of the legal restrictions against firing into civilian areas, while violating the spirit of those rules by deferring responsibility.¹⁴³ This they could achieve by attributing civilian casualties and "collateral damage" to more-abstract subjects: high-flying aircraft and the putative margin of "technical error" in attempting precision airstrikes in urban environments.

Israel's combined tactics of forced displacement and targeting of civilians peaked in audacity, if not also in numbers, on 18 April 1996, when Chief of Staff and former Head of Intelligence Lieutenant General Moshe Ya'alon ordered the strike that killed over 100 Shi'a civilians and wounded over 100 others having evacuated to a Fijian UNIFIL compound near Qana, Lebanon.¹⁴⁴

The recent Operation Cast Lead, in Gaza, had been meticulously planned for over six months in two components: military tactics and propaganda (*hasbara*, in Hebrew). The strategy supposedly built upon the lessons of Israel's 2006 "Operation Change of Direction," in Lebanon, which was considered to be poorly planned and marketed. Much of what has been done and said in both was preplanned, staged and, therefore, intended.

The civilian consequences of Israel's military policy apparently is discussed frankly among its high officials. Thirty years ago, Chief of Staff Mordechai Gur awakened to the fact that, since 1948, "we have been fighting against a population that lives in villages and cities."¹⁴⁵ One of Israel's most prominent military analysts, Ze'ev Schiff, placed Gur's remarks in context, saying: "the Israeli Army has always struck civilian populations, purposely and consciously...the Army has never distinguished civilian [from military] targets...[but] purposely attacked civilian targets."¹⁴⁶

In the context of attacks on civilian targets, the attackers denied civilians' freedom of movement to the extent that that violation also prevented civilians' escape from harm and their access to humanitarian assistance, where available. In the case of the 1967 war, as reported above, Israeli forces escorted and trucked intended refugees to the Jordan River border with Jordan not as a function of protecting civilians or ensuring humanitarian access, but in order to depopulate villages and, later, prevent the indigenous inhabitants' return, including by the demolition of whole villages.

Two weeks after the Israeli Prime Minister Ehud Olmert's promise to establish "humanitarian corridors" in South Lebanon during the July War (2006), the UN humanitarian coordinator pleaded with the Israelis to end their attacks on the country's infrastructure. There Israeli forces destroyed every bridge across the Litani River, including a temporary humanitarian-access bridge that the Lebanese army maintained. Consequently, thousands of civilians remained simply "cowering in their homes."¹⁴⁷ The official Israeli promise of "humanitarian corridors" appeared disingenuous.

Later, in the Israeli blockade of Gaza and before and during Operation Cast Lead, civilians became trapped with "no place to run, no place to hide."¹⁴⁸ All of the Israeli forces' "warnings" to evacuate, or to stay put, and even their instructions to escape to UN-coordinated shelters did not ensure refuge from the military onslaught actually targeting them.

The findings of this study suggest consistency in Israel's military conduct that forms an unbroken pattern of attacks on civilian homes, shelters and shelter seekers. The Israeli army's reputation for efficiency has worn thin in light of such conduct repeated over time, suggesting rather a lack of military professionalism, a general dismissal of applicable international law norms, and little preparation and training of military personnel as causes of gross violations, grave breaches, war crimes and probable crimes against humanity.

These violations may be seen in human rights terms as violations arising from acts of omission. However, accompanying statements by Israel's military and political leadership over time reflect a knowing and rational preference for brutality against civilians, particularly in the form of attacks and other violations against civilian homes, shelters and shelter seekers. This pattern of both word and deed demonstrates deliberateness. Those aspects of the military practice, therefore, fall within the category of violations and crimes rather as "acts of commission."

ANNEX 1

When Housing Rights Violations Constitute International Crime and Require Remedy

Human rights law and international humanitarian law (IHL) are complementary, sharing a mutually reinforcing relationship during armed conflict. A proper legal analysis requires reference to both bodies of law.¹⁴⁹ Certain human rights may be defined more specifically in their quotidian context. The *lex specialis* of IHL provides specific rules and prohibitions that may be relevant for the purposes of interpreting the human rights and corresponding domestic and extraterritorial State obligations in cases of armed conflict.¹⁵⁰ For organizational purposes, the present discussion of housing and land rights standards in both regimes will proceed from the more-general human rights norms to their more-specific application in the context in which IHL also applies.

With the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, the right to adequate housing is recognized internationally as an indispensable component of right to an adequate standard of living.¹⁵¹ Ever since, the right to adequate housing has achieved worldwide recognition and needed legal precision derived from implementation of international legal instruments as a basic right of all human beings. This legality, like all human rights, is grounded in the moral argument and popular struggles asserting the intrinsic value and dignity of the human person that is affirmed and realized in a state of well-being, a common objective and an objective indicator of civilization.

Human rights treaties and customary norms oblige States, including those party to the relevant covenants and conventions, to conduct themselves so as to respect, protect and fulfill the human right to adequate housing (HRAH) in ways that ensure the progressive attainment and sustainability of human well-being.

All States in the UN Organization have ratified international treaties committing them to respect, protect and fulfill the human right to adequate housing. In addition to ratification of those instruments, most States also have assumed specific legal obligations at the domestic level in the form of constitutional provisions, legislation, national policies and/or domestic jurisprudence. Israel is a ratifying party to the major human rights treaties relevant to the current situation.¹⁵²

The most fundamental provision for the legal right to adequate housing, including security of tenure and freedom from dispossession and destruction, is embodied in Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which provides:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and to the continuous improvement of living conditions.

Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) obliges States parties to:

prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:...

(d)(v) The right to own property alone as well as in association with others...

(e)(iii) the right to housing.

Article 14(2)(h) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) obliges States parties to ensure that women:

enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Article 27(3) of the International Convention on the Rights of the Child (CRC) calls upon States parties to:

provide material assistance and support programs with regard to nutrition, clothing and housing.

As a ratifying party to these legal instruments, a State is bound to ensure and demonstrate its progress toward ensuring that the rights enshrined in each of them is respected, protected, promoted and fulfilled in accordance with the common overriding principles (discussed below).

A State party's human rights obligations are generally understood to derive from a formula of three aspects: to respect protect and fulfill the right. In practical terms, these concepts mean, respectively, that a State and its agents must (1) govern their own behavior so as not to violate the human right, (2) ensure that third parties do not violate the right of others and (3) take practical and effective steps actively "to the maximum of its available resources" to ensure the realization of the right.¹⁵³

While this nonhierarchical formula of these aspects of implementation provides some clarity as to "what" a State is obliged to do in implementing a human rights treaty, other provisions—known as the over-riding principles of implementation—clarify "how" that implementation is to be carried out. The first three articles ICESCR set forth the six over-riding principles that address the required behavior of States as essential conditions in their respect, protection and fulfillment of rights:

- Self-determination¹⁵⁴
- Nondiscrimination¹⁵⁵
- Gender equality
- Rule of law¹⁵⁶
- International cooperation¹⁵⁷
- Progressive realization/nonretrogression¹⁵⁸

The last of these over-riding principles, "progressive realization," is found uniquely in ICESCR. Therefore, it is understood to reflect the special character of economic, social and cultural rights, such as HRAH, which may require serial efforts to become fully realized. However, the other five over-riding principles reflect the immediacy of State obligations. That means that it is inadmissible that a State delay its implementation of

economic, social and cultural right by, for example, continuing to discriminate on the basis of gender or any other arbitrary criterion.¹⁵⁹

Extraterritorial applicability of human rights obligations

ICESCR and the Convention on the Elimination of All Forms of Discrimination against Women (CEDaW) contain no provision limiting their application to the internal territory of States parties. Articles 2 (1) and 16 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) refer to each State party's obligation to prevent acts of torture "in any territory under its jurisdiction." The International Court of Justice has concluded that ICCPR "is applicable in respect of acts done by a State [also] in the exercise of its jurisdiction outside its own territory."¹⁶⁰

For purposes of this report, the human rights application principle of international cooperation is particularly significant as the principle that sets forth the extraterritorial dimension of the State's human rights obligations. ICESCR provides in Article 2(1) that:

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant...

In the context of ICESCR Article 11, guaranteeing HRAH, the Covenant reinforces the extraterritorial dimension of State parties' human rights obligations. It provides that:

The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

The concept of international cooperation, as initiated as a formal obligation in the UN Charter, extends far beyond the constitutional borders of a State and follows the State in its bilateral or multilateral relations, including in technical assistance cooperation. International cooperation is an essential subject of modern statecraft and a legal obligation of all States members of the United Nations. The contours and content of such cooperation is defined in the Charter as one of the principal purposes of the United Nations:

...in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.¹⁶¹

International cooperation, according to Article 55 of the Charter, involves:

...the creation of conditions of stability and well-being[,] which are necessary for peace and friendly relations among nations based on respect for the principles of equal rights and self-determination of peoples, [hence] the United Nations shall promote universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

In 1970, the General Assembly further specified the obligations of States to engage in international cooperation in fulfillment of their chartered responsibilities:

Considering [...] the progressive development and codification of the following principles:...

(d) the duty of States to cooperate with one another in accordance with the Charter;...

(g) the principle that States shall fulfill in good faith the obligations assumed by them in accordance with the Charter, so as to secure their more-effective application within the international community[,] would promote the realization of the purposes of the United Nations;...

The duty of States to cooperate with one another in accordance with the Charter

The duty of States to cooperate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and international cooperation free from discrimination based on such differences....

Like human rights, in general, the over-riding principles of human rights implementation also have an indivisible quality. For example, the subsequent elaborations of the Charter's principles also have established the relationship among international cooperation, self-determination and human rights:

The principle of equal rights and self-determination of peoples...

Every State has the duty to promote[—]through joint and separate action[—]universal respect for, and observance of human rights and fundamental freedoms in accordance with the Charter....¹⁶²

Human Rights applicability in armed conflict

In considering the full complementarity of human rights and IHL, one of the first dilemmas arises from the question of the potential limits of human rights law in particular situations. The relevance of this question extends well beyond the exceptional situation of armed conflict, and embraces the very regular issues of regulating extraterritorial State behavior in trade, investment and finance for development.

ICCPR and other international human rights instruments allow for the possibility to derogate from obligations to respect, protect and fulfill certain rights in particular circumstances that threaten the nation's existence, provided that the measures are strictly necessary and are rescinded as soon as the public emergency or armed conflict ceases to exist.¹⁶³ It is notable, for the present inquiry, that Israel remains in a state of public emergency proclaimed on 19 May 1948, four days after its Declaration of Establishment.¹⁶⁴ Israel issued a declaration upon ratification of ICCPR that reaffirmed that state of emergency and issued a reservation to Article 9 (liberty and security of person).¹⁶⁵

ICCPR specifies the nonderogable rights, which (theoretically) prevail without limitation in any situation, including states of emergency and armed conflict.¹⁶⁶ ICESCR does not provide explicitly for derogations in time of public emergency. However, in times of armed conflict, the guarantees of the Covenant may be limited in accordance with its Article 4 and/or in the possible case of scarcity of available resources in the sense of Article 2.1.¹⁶⁷

Legal experts and international human rights bodies have established that human rights law and its corresponding State obligations do not disappear with the outbreak of conflict.¹⁶⁸ In support of that legal fact, international case law and the findings of UN human rights treaty bodies provide ample support for the contention that a State's human rights obligations extend to areas beyond its national borders to areas within its "effective control."¹⁶⁹

Extending legal obligations to respect, protect and fulfill human rights law as a rule to govern a State's extraterritorial actions may be essential to sustaining and advancing human well-being and civilization. However, that does not rule out the consideration that, while our current stage of human civilization legally permits the conduct of war through the provisions of IHL, the content of human rights may require interpretation in the light of applicable IHL rules. The obvious contradiction between permissible killing under IHL and the "nonderogable" right to life may be too obvious an example to mention.¹⁷⁰

However, to the extent that essential housing and land values are concerned, applying the specificity of human rights law to States' extraterritorially conduct in armed conflict poses potential challenges and sets legal limits to States' classic warring conduct. Among these norms are the test of "effective control" and "within the power" of the State required to implement human rights criteria in areas outside its "national" territory. Legal debates continue with intent to limit human rights duties of States at war by seeking to limit definitions of "control." This follows the logic asserting that the conduct of war by airborne assaults, perforce, eludes the attacking State's responsibility for the human rights consequences.¹⁷¹

That legally dismissive posture of belligerent States compares with actions involving the deployment of ground troops, where "effective control of territory" is presumably greater.¹⁷² A war-enabling IHL theory also asserts that extraterritorial battlefield conduct enjoys exemption from human rights application unless and until individual combatants are subsequently removed to a detention facility that the duty-bearing State operates.¹⁷³ More positive is the interpretation by some military quarters in some States, recognizing that customary international law, including human rights obligations, may extend to all international operations.¹⁷⁴

Important as it is to the prospects of remedies, the human rights perspective sees the legalistic and academic debate as limiting a State's extraterritorial human rights obligations in wartime as an unacceptable form of malign dalliance, adding insult to the injury that the gravely violated civilians have incurred.

However, there is little dissent from the position that human rights and their corresponding State obligations apply in times of war.¹⁷⁵ What endures, however, are legal questions as to the extent of their application in certain circumstances.

Housing Rights and Population Transfer

Long-standing international human rights treaty obligations form one basis for the legal authority upon which rest affected persons' human rights claims against Israel for its arbitrary damage, destruction and forcible acquisition of civilian private and public property, including homes and other shelters, infrastructure and public service facilities, and all manner of natural resources. Coercive measures to remove human inhabitants from, or dispossess them of their dwellings are violations of the minimum international standards of State behavior under human rights law. This specific prohibition is borne out in the CESCR General Comment No. 7 (GC 7) on "the right to adequate housing: forced eviction" (1997). Ample support for that prohibition is found in the jurisprudence of ICESCR, as well as the UN Commission on Human Rights, which has resolved that "forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing."¹⁷⁶ The UN Sub-Commission on the Promotion and Protection of Human Rights also has characterized the all-too-common practice as a violation of "the right to adequate housing, the right to remain, the right to freedom of movement, the right to privacy, the right to property, the right to an adequate standard of living, the right to security of the home, the right to security of the person, the right to security of tenure and the right to equality of treatment."¹⁷⁷

The type of displacement that often takes place in the context of armed conflict constitutes a particularly egregious form of forced eviction, owing to its scale and the severity of the resulting deprivation. As citizens of their respective countries, IDPs are entitled to enjoy the protection of all international human rights and humanitarian law guaranteed by their State's adherence to the relevant instruments of public international law, including customary law norms.

IHL contains the specific prohibitions against "population transfer." At the same time, IDPs have specific needs distinct from those of the nondisplaced population that specific protection and assistance measures must address. The "Guiding Principles on Internal Displacement"¹⁷⁸ and "Basic principles and guidelines on development-based evictions and displacement"¹⁷⁹ detail those measures of State responsibility.

Claims arising from Israel's damage and destruction, forced eviction and the destruction and denial of vital civic services are grounded in HRAH, in particular the relevant entitlements forming the normative content of the right, including:

- security of tenure and freedom from dispossession and demolition
- habitability of adequate housing
- access to public goods and services
- location of adequate housing
- a safe and healthy environment¹⁸⁰
- environmental goods and services, including water and land.¹⁸¹

In addition to HRAH, other codified human rights form a basis for claims against Israel for unjustifiable destructive on homes and other shelters, lands and civic infrastructure and service facilities. These violated human rights include:

- The right to food
- The right to livelihood
- The right to information
- The right to security of person
- The right to protection of the family
- The right to property (freedom from dispossession)
- The rights to return, restitution, resettlement, rehabilitation, compensation and a pledge of nonrepetition (i.e., reparations) for refugees and displaced persons.

International Humanitarian Law: General Principles

Of the IHL rules applicable to attackers, the most relevant relate to the principles of distinction, proportionality and necessity, and the obligation to take related precautionary measures to protect civilians. These obligations are cumulative: an attack must comply with all of the rules in order to be lawful.¹⁸²

In order to comply with the principle of distinction, the parties to a conflict must distinguish between civilians and combatants at all times,¹⁸³ and they may direct attacks only at military objectives. Such targets are defined as those objects that, by their nature, location, purpose or use, effectively contribute to military action, and whose total or partial destruction, capture or neutralization, in the current circumstances provides a definite military advantage.¹⁸⁴

The only circumstance in which a conflict party may target civilians is at such time as they assume a direct role in hostilities.¹⁸⁵ Thus, attacks on civilian objects¹⁸⁶ are unlawful unless, at the time of the attack, they were used for military purposes and their destruction serves a definite military purpose, fulfilling the strict requirement of military “necessity.”

Similarly prohibited,¹⁸⁷ indiscriminate attacks include those actions that (i) are not directed at a specific military objective, (ii) employ a method or means of combat that cannot be directed at a specific military objective, or (iii) employ a method or means of combat with effects that cannot be limited as required by international humanitarian law. In such cases, if the attack lacks the necessary distinction between military and civilian objectives, it is illegal.¹⁸⁸ Bombardment and missile strikes that treat a number of clearly separated and distinct military objectives located in an urban area or rural village as a single military objective are strictly prohibited.¹⁸⁹

The proportionality principle governs attacks on legitimate military objectives such that prohibits excessive effect in relation to the concrete and direct military advantage sought. Disproportionate attacks would be those that cause incidental civilian injury or loss of life, damage to civilian objects, or any combination thereof.¹⁹⁰

An attacker must take all feasible precautions to minimize and, where possible, prevent incidental civilian injury or loss of life and damage to civilian objects.¹⁹¹ IHL prescribes specific precautionary measures to be taken in the planning and conduct of attacks.¹⁹²

Moreover, an attacker is required to give effective advance warning of attacks that may affect the civilian population, unless circumstances do not permit.¹⁹³

IHL also imposes obligations on defenders, requiring them to protect civilians by keeping them away from military targets¹⁹⁴ and prohibiting the use of human shields.¹⁹⁵ A violation of this principle involves the defender's specific intent to use civilian persons as a means to exclude otherwise legitimate military objectives from lawful attack.¹⁹⁶ Any conflict party's violation of these obligations *vis-à-vis* the civilian population does mitigate the obligations on any other party to the conflict to refrain from an excessive attack in relation to direct military advantage.

Within the general principles of IHL are guides for our consideration of violations of housing and land rights that constitute war crimes and crimes against humanity. The relevant war crimes also include specifically prohibited acts that have affected homes and other structures, land, and civic services and their facilities, including any combination of:

- Forced displacement
- Use of prohibited weapons
- Prohibited use of weapons not legally banned
- Attacks on civilian persons (in their homes or other shelters)
- Attacks on, damage and destruction of civilian (private and public) property.

For the purposes of this inquiry, "crime against humanity" includes any single or combined legally prohibited acts "when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack."¹⁹⁷ Widespread or systematic violations of housing and land rights may constitute crimes against humanity in the context of the following acts:

- Deportation or forcible transfer of population
- Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender..., or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court
- Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.¹⁹⁸

Serious violations mentioned above and other principles of international humanitarian law by individuals constitute war crimes. States are obliged under international law to investigate these and other war crimes committed within their jurisdiction,¹⁹⁹ allegedly committed by their nationals or armed forces, or on their territory, and to prosecute any suspected violators.²⁰⁰

These applicable legal standards form the first test of the potential claims to pursue. For the purposes of this inquiry, the scope of the exercise follow the parameters of violations of the human right to adequate housing and land rights, both in their definition in human rights law, as well as under the corresponding rights arising from international humanitarian law (IHL).

HRAH in International Humanitarian Law

Both Israel and its affected neighbouring states (Egypt, Lebanon, Jordan and Syria) are parties to the Geneva Conventions of 12 August 1949. Egypt, Jordan, Lebanon and Syria are parties to the Geneva Conventions' Additional Protocol I (international conflict), and Egypt, Jordan and Lebanon are parties to Protocol II (noninternational conflict). Israel is party to neither Additional Protocol. All of the parties to the conflict are subject to customary international humanitarian law.²⁰¹

The relevant sources of law on international armed conflicts include, in particular, the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (Fourth Geneva Convention, or Civilians Convention), and those provisions of the Additional Protocol I that are declaratory of customary international law, and contractually binding those ratifying States. In addition, standards predating the Civilians Convention govern the conduct of States during war and occupation. According to most opinions today, the provisions of The Hague and the Geneva Conventions constitute customary international law.²⁰² The 1977 Additional Protocols to the Geneva Conventions of 1949 have not been universally ratified, Currently, 168 States parties have ratified Protocol I and 164 have acceded to Protocol II, but a number of their provisions are today generally accepted as constituting customary international law.

The Hague Convention IV concerning the Laws and Customs of War on Land, adopted in 1899 and revised in 1907, constitutes the fundamental a codified standard of the conduct of land warfare. As noted in the case of Israel's prolonged occupation of Palestine, some of those standards govern activities affecting housing and land rights.²⁰³ However, the Geneva Conventions and Protocols relate to the particular circumstances of Israel's 2008–09 Operation Cast Lead, and this review also considers those norms that relate to military conduct affecting HRAH and related entitlements.

Every occupying army is obligated to protect the local population and ensure its safety and well-being. It is certainly permissible to derogate from this duty in the case of military necessity. However, in that instance, the welfare of the local population must be the primary military consideration. Consequently, the combatant or occupying State also must protect the civilian population's property, private and public. Article 23(g) of the Hague Regulations of 1907 states that it is forbidden "to destroy or seize the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war."²⁰⁴ Article 46 of the Hague Regulations provides that a State's military must respect and protect private property, and that it cannot confiscate such property unless that action fulfils the strict criterion of military necessity, in which case

any confiscation would be temporary. Article 53 of the Fourth Geneva Convention also provides that the destruction of property by the combatant State is forbidden, "except where such destruction is rendered absolutely necessary by military operations." Because military forces hold special obligations toward the civilian population, they bear an extremely heavy burden of proof that the injury was necessary. Article 147 of the Fourth Geneva (Civilians) Convention provides that, "extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly" is a grave breach of the Convention. However, even if such objectives belong to a category of military targets or "dual use" objects, they cannot be considered as a military necessity where their total or partial destruction offers no military advantage.

There is no significant difference among these relevant articles of The Hague Regulations and the Civilians Convention, and the articles complement each other.

Even in the case of military necessity, which can provide an exception to the sweeping prohibition on destruction of property, the occupier must comply with the other provisions of international humanitarian law. Indeed, jurists and international tribunals firmly have negated assertions that military necessity prevails over other considerations and, thus, "necessity" nullifies application of these humanitarian provisions. Every act must comply with international humanitarian law, and, therefore, the parties are not free to choose the ways and means to wage combat.

To ensure that the exception set out in article 23(g) of the Hague Regulations and Article 53 of the Fourth Geneva Convention is not broadly construed, international humanitarian law also forbids damage property as a preventive means; that is, where the danger has not yet manifest. It further prohibits the destruction of property unless alternative, less injurious, means are not available to achieve the required military objective. In addition, it expressly forbids military forces from destroying property with the intent to deter, terrify, or take revenge against the civilian population. Injury to property intended to cause permanent or prolonged damage also is expressly forbidden.²⁰⁵

Evictions and Displacement in IHL

The Hague Regulations do not contain explicit mention of the practice of eviction or "population transfer." One explanation for this omission is that "the practice of deporting persons was regarded at the beginning of this [20th] century as having fallen into abeyance," and that the prohibition of deportations "may be regarded today as having been embodied in international law."²⁰⁶ The horrors connected to the mass deportations and transfers that took place during World War II, however, motivated the inclusion of an explicit prohibition of forcible transfers as "deportations" in the 1949 Civilians Convention. According to Jean Pictet, the intent of this important prohibition becomes obvious: "It will suffice to mention that millions of human beings were torn from their homes, separated from their families and deported from their country, usually under inhumane conditions. The thought of the physical and mental suffering endured by

these “displaced persons” among whom were a great many women, children, old people and sick, can only lead to thankfulness for the prohibition embodied in this paragraph, which is intended to forbid such hateful practices for all time.”²⁰⁷

In the 1949 Civilian Convention’s Article 49, “individual or mass forcible transfers, as well as deportations of protected persons from occupied territory...are prohibited, regardless of their motive.” The prohibition is absolute, apart from the exceptions stipulated in paragraph 2, which authorizes the occupying Power to evacuate an occupied territory wholly or partly only if “the security of the population or imperative military reasons so demand.”

The commentary to the Convention’s paragraphs 2 and 3 indicates that the intention behind the exception clause is to protect the interest of the population concerned and to mitigate the unfortunate consequences of evacuation.²⁰⁸ Article 49 further prohibits the occupying Power to “deport or transfer parts of its own civilian population into the territory it occupies.” The commentary states that the States adopted that clause “to prevent a practice adopted during the Second World War by certain Powers that transferred portions of their own population to occupied territory for political and racial reasons, or in order, as they claimed, to colonize those territories. Such transfers worsened the economic situation of the native population and endangered their separate existence as a race.”²⁰⁹ There is no exception clause to this prohibition.

Although the Civilian Convention’s Article 49 was drafted with the intention to prohibit and, thereby, prevent population transfers and displacements in times of armed conflict, at the same time it sanctions such evacuations when “imperative military reasons so demand.” Through inclusion of the exception clause, based on imperative military reasons, the principles contained in Article 49 can just as easily be used to give forced removals a legal basis as to protect the rights of potential displaced persons. The breadth with which combatant States interpret “imperative military reasons” leaves some doubt as to the actual protection of Article 49. Nonetheless, the basic guarantee contained in that provision is the clear and unambiguous prohibition of individual and mass forcible transfers.²¹⁰ Invocation of the exception clause by States to justify expulsion or population transfer contrary to the prohibition contained in Article 49, however specious, may nevertheless contribute to strengthening the claim to the article’s customary law status. International human rights law also prohibits arbitrary displacement, including displacement in situations of armed conflict that is not warranted by the need to ensure the security of the civilians involved.²¹¹

The Regulations annexed to The Hague Convention IV, in particular, their provisions concerning the treatment of civilians provide the basis for the customary law content of a large number of the guarantees contained in the Civilians Convention.²¹² However, Article 49 has no antecedents in The Hague Regulations. As to its legal status, Theodor Meron comments:

At least the central elements of article 49 (1), such as the absolute prohibitions of forcible mass and individual transfers and deportations of protected persons from occupied territories...are declaratory of customary law, even when the object and setting of the deportations differ from those underlying German World War II practices [that] led to the rule set forth in article 49.

Although it was less clear that individual deportation was already prohibited in 1949, I believe that this prohibition has by now come to reflect customary law.

The general IHL principle of precaution also requires each party to the conflict to give effective advance warning of attacks that may affect the civilian population, providing enough time and opportunity to evacuate safely, unless circumstances do not permit. The prohibition of indiscriminate disproportionate attacks must determine not only the military strategy applied in an operation, but also the limitation or prohibition of certain weapons used in situations where the civilian population would be affected.

In accordance with Article 147 of the Civilians Convention, "unlawful deportation or transfer of protected persons" constitute grave breaches of the Convention, suspected perpetrators of which crimes the High Contracting Parties are under obligation to pursue and punish before their own courts. Each State is obliged also to enact legislation to provide for punishment of any person who has committed such a grave breach, regardless of nationality or place where the offense has been committed.²¹³

The Protocols to the Geneva (Civilians) Convention

The development of new methods of conducting war, the experience in armed conflicts showing the shortcomings of the existing Conventions and contemporary developments in human rights law have given impetus to the further development of humanitarian law. In 1977, the High Contracting Parties added the two Additional Protocols to the Geneva Conventions of 1949. Additional Protocol I supplements the protection in situations of international conflict by extending its application to include situations "of armed conflict in which people are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination."²¹⁴ (See relevant discussion below.) Protection against practices of population transfer is further extended by article 85 of Protocol I, which, *inter alia*, provides in paragraph 4 that:

In addition to the grave breaches defined in the preceding paragraphs and in the Conventions, the following shall be regarded as grave breaches of this Protocol, when committed willfully and in violation of the Conventions or Protocol: (a) the transfer by the Occupying Power of its own civilian population into the territory it occupies, or the deportation or transfer of all parts of the population of the occupied territory within or outside of this territory, in violation of article 49 of the Fourth Convention.

Article 85, paragraph 5 of Protocol I provides that "grave breaches of these instruments shall be regarded as war crimes." Article 86 implements Article 85 by imposing on parties to the conflict an obligation to repress grave breaches. Article 85, paragraph 4 (c), referring to transfers of population into or away from a certain territory does not lay out particular consequences as constitutive requirements for a grave breach to occur. The main emphasis of that clause is on the transfer by an occupying Power of parts of its own civilian population into the territory it occupies. That practice constitutes a breach under the Civilians Convention, but is now a grave breach under the Protocol as well. According to expert commentary, that is because of the possible consequences for the population of the territory concerned from a humanitarian point of view.²¹⁵

Article 86 also provides for the criminal responsibility of those who have failed in their duty to act according to the IHL prohibition. One obvious duty to act consists of taking appropriate measures to prevent breaches of the Conventions or Protocols, which implies a range of potential actions required of those subjects of the provisions.

Additional Protocol II to the Geneva Conventions applies in particular situations of internal conflict, and requires a certain degree of territorial control on the part of the organized armed group fighting the State.²¹⁶ Article 17 provides that: “The displacement of the civilian population shall not be ordered for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand.”

The wording of this provision is based on Article 49 of the Civilians Convention. Its inclusion fills the gap in protection against forced displacement in noninternational armed conflicts, a situation in which the need for such protection is particularly acute.

From expert commentary, we learn that the adjective "imperative" in "imperative military reasons" reduces to a minimum the cases in which displacement may be lawfully ordered:

Clearly, imperative military reasons cannot be justified by political motives. For example, it would be prohibited to move a population in order to exercise more effective control over a dissident ethnic group.²¹⁷

Article 17 of Protocol II provides also that no displacement shall take place for reasons "related to the conflict," leaving open the possibility that transfer may be imperative in certain cases of epidemic or natural disaster, such as floods or earthquakes.²¹⁸

As to its status in international law, Protocol II has been recognized as containing core rights, some of which already have been recognized as customary in international human rights instruments. In this context, the International Committee of the Red Cross commentary on Protocol II states that it:

contains virtually all the irreducible rights of the Covenant on Civil and Political Rights.... These rights are based on rules of universal validity to which States can be held, even in the absence of any treaty obligation or any explicit commitment on their part.²¹⁹

Some other authors have taken a more conservative view and concluded that most of Protocol II has to be regarded as confined to treaty law in the absence of more substantial State practice providing evidence of acceptance of its provisions into customary law.²²⁰

The ICRC Draft Rules for the Limitation of the Dangers Incurred by the Civilian Population in Time of War formed a precursor to the eventual Protocols. They provide specificity as to the obligations of a State's military conduct. The Draft Rules affirm that “it is also forbidden to attack dwellings, installations or means of transport, which are for the exclusive use of, and occupied by, the civilian population.”²²¹

According to these Rules, “the attack shall be conducted with the greatest degree of precision” in towns and other places with a large civilian population [and] which are not

in the vicinity of military or naval operations. Such attacks must not cause losses or destruction beyond the immediate surroundings of the military objective, and a person responsible for carrying out the attack is obliged to abandon or interrupt the operation if s/he perceives that these conditions cannot be respected.²²²

The body of preceding standards guide our consideration of violations of housing and land rights that constitute war crimes with a set of criteria comprised of the most-relevant IHL norms. In order to comply with these norms and with the standards of the most likely forums for legal remedy, the applicable issues to document are the facts and consequences of prohibited acts that have affected homes and other structures, land and civic services and their facilities, including any combination of:

- Forced displacement
- Use of banned weapons
- Prohibited use of weapons not legally banned
- Attacks on civilian persons (in their homes or other shelters)
- Attacks, including damage and destruction of civilian (private and public) property.

International Criminal Law

The conduct of war and other forms of armed conflict has given rise to well-established norms of criminal law prevailing in the context of Israel's Operation Cast Lead. The principal applicable instruments are the Rome Statute of the International Criminal Court (1998) and the London Charter of the International Military Tribunal (1942). The jurisprudence of the Nuremberg and Tokyo Tribunals, as well as the more-recent International Tribunal on the Former Yugoslavia and the International Tribunal on Rwanda provide important precedents and legal specificity. Although it is not within the scope of this review to analyze the whole of that body of jurisprudence, certain examples may be elucidating.

Population displacement

The earliest explicit mention of population transfer in an international legal document was the recognition of "forced resettlements" as a war crime in the Allied Declaration on German War Crimes, adopted by representatives of the nine occupied countries, exiled in London, in 1942. It stated, *inter alia*:

With respect to the fact that Germany, from the beginning of the present conflict, has erected regimes of terror in the occupied territories...characterized in particular by...mass expulsions...²²³

On 17 October 1942, the Polish Cabinet in Exile issued a decree on the punishment of German war crimes committed in Poland, which provided that life imprisonment or the death penalty would be imposed "if such actions caused death, special suffering, deportation or transfer of population."²²⁴

In reaction to the abundant and flagrant violations of the laws and customs of war during the Second World War, the Allied Powers established the International Military Tribunal (IMT) to try the principle war criminals. The IMT Charter introduced into international law

the notions of crimes against the peace, war crimes and crimes against humanity. It defined "war crimes" as "Murder, ill-treatment or deportation to slave labour or for any other purpose of civilian population of or in occupied territory..."²²⁵

Article 6 (c) of the Charter defined "crimes against humanity" as:

Murder, extermination, enslavement, deportation and other inhumane acts committed against any civilian population before or during the war... in execution of or in connection with any crime within the jurisdiction of the Tribunal...²²⁶

The notion of "crimes against humanity" differs from war crimes in that crimes against humanity can be committed before or after, as well as during, a war and against any population, including the perpetrator's own population.

In addition to the four Powers approving the IMT Charter, 19 other States acceded to it as well. Furthermore, the United Nations General Assembly affirmed the principles of international law recognized by the IMT Charter and reflected by the judgment of the Tribunal.²²⁷

The Nuremberg judgment dealt in various instances with the practice of displacing civilians from the occupied territories and replacing them by German colonists. For example, count 3, section J of the judgment states:

In certain occupied territories purportedly annexed to Germany the defendants methodically and pursuant to plan endeavoured to assimilate these territories politically, socially and economically into the German Reich. They endeavoured to obliterate the former national character of those territories.

In pursuance of their plans, the defendants forcibly deported inhabitants who were predominantly non-German and replaced them by thousands of German colonists.²²⁸

During the trials, the prosecutors and judges addressed and repeatedly condemned the practice of "Germanizing" or "Nazifying" occupied or "annexed" territories by deporting or expelling the original population and moving in German settlers.²²⁹ In conclusion, the Nuremberg judgment held that population transfers and colonization in occupied territory constituted both a war crime and a crime against humanity, and that deportation of persons was illegal.²³⁰

House demolitions

Nazi troops occupying northern and eastern European countries during the Second World War USED House demolitions, including the demolition of civilian infrastructure, as a military tactic. The practice produced one particularly notorious case tried at the Nuremberg Tribunal. From 1935 to 1938, Alfred Jodl, was chief of the National Defense Section in the German High Command and, later, Chief of the Operations Staff of the High Command of the Armed Forces. The International Military Tribunal found him guilty on all four counts of the indictment. Count Three: War Crimes addressed the German Government and the German High Command carrying out, "as a systematic policy, a continuous course of plunder and destruction."²³¹

On the territory of the Soviet Union the Nazi conspirators destroyed or severely damaged 1,710 cities and more than 70,000 villages and hamlets, more than 6,000,000

buildings and made homeless about 25,000,000 persons.” On 28 October 1944, Jodl ordered the evacuation of all persons in northern Norway and the burning of their homes so as to deter them from aiding the Russians. Jodl testified that he opposed the operation, but Hitler had ordered it. He also testified that the order was not fully executed. However, the Norwegian government provided evidence that such an evacuation did take place, and that 30,000 houses were damaged.

Consequently, the Nuremberg International Military Tribunal condemned the practice as a war crime,²³² and international humanitarian law permits an occupier to take the drastic step of destroying property only when “rendered absolutely necessary by military operations” in actual combat.²³³ Under international humanitarian law, objects normally dedicated to civilian purposes, such as houses, are presumed not to be military objectives.²³⁴ Article 147 of the Geneva Civilians Convention concludes that extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, is a grave breach of the Convention.²³⁵

The General Assembly adopted the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity in its resolution 2391 on 26 November 1968, and it entered into force on 11 November 1970. The Convention is relevant to the legal discussion concerning housing and land rights and evictions as it extends the concept of war crimes and crimes against humanity as defined by the Charter of the Nuremberg Tribunal. It also embodies the principle that no time limits to prosecution shall apply to the crimes referred to in the Convention, “irrespective of the date of their commission.”²³⁶ In accordance with article 1(b), the Convention includes the following acts among crimes against humanity:

eviction by armed attack or occupation²³⁷ and inhumane acts resulting from the policy of apartheid, and the crime of genocide as defined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, even if such acts do not constitute a violation of the domestic law of the country in which they were committed.

Article 1 (b) also specifies that crimes against humanity may be committed “in time of war or in time of peace”, thus delinking it from the ambiguity of article 6 (c) of the Charter of the Nuremberg Tribunal, which could be interpreted as not extending to the same category of crimes committed in time of peace not followed by war.

Article 2 stresses that inaction, as distinct from active involvement, on the part of the State authorities in not preventing the commission of international crimes is sufficient to bring those persons within the ambit of the Convention.

International Criminal Court

In July 2000, States adopted the Rome Statute of the International Criminal Court.²³⁸ The Statute limits the jurisdiction of the Court to the most serious crimes of concern to the international community as a whole, which the Statute classifies as:

- (a) The crime of genocide,
- (b) Crimes against humanity,

- (c) War crimes,
- (d) The crime of aggression.

The General Assembly and its Special Committee on the Question of Defining Aggression arrived at a legal definition of aggression, which the Special Committee adopted by consensus and the General Assembly adopted without a vote in 1974.²³⁹ However, as the Security Council has not yet adopted the legal definition of the crime of aggression, the Rome Statute only provides for the Court's jurisdiction over acts constituting aggression in that event and with the Security Council's determination of conditions under which the Court is to exercise jurisdiction. While the International Court of Justice has affirmed the principle that the Security Council's responsibilities relating to peace and security are "primary," but not "exclusive,"²⁴⁰ it also has considered that the existing definition of aggression in GA resolution 3314 "may be taken to reflect customary international law"²⁴¹ and has found that the 3314 definition to "marks a noteworthy success in achieving by consensus a definition of aggression."²⁴²

While the 3314 definition does not claim to be wholly inclusive or exhaustive, the reasons for controversy over formally adopting it as the operative definition for the ICC may be more political than legal. However, genocide²⁴³ and the other crimes are sufficiently defined in international law, including specific agreements for that purpose. Their definitions have been incorporated into the Rome Statute text.

The Statute defines "crime against humanity" to mean any of eleven acts "when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack."²⁴⁴ Related to the purposes of this review, these crimes include:

- (d) Deportation or forcible transfer of population;...
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender..., or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;...
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

For the purpose of Article 7, paragraph 1, "Deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.

The ICC also holds jurisdiction over war crimes, "in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes."²⁴⁵ The Rome Statute defines such crimes in a detailed list. Those that pertain to the violations of HRAH and related aspects of land and civic services include:

- (a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

- (iv) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
- (vii) Unlawful deportation or transfer or unlawful confinement;
- (b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:
 - (ii) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
 - (iv) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
 - (v) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
 - (viii) The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
 - (xii) Declaring that no quarter will be given;
 - (xiii) Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;
 - (xvi) Pillaging a town or place, even when taken by assault;
 - (xxv) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions...

The Court has jurisdiction only with respect to crimes committed after the entry into force of the Rome Statute, on 1 July 2002, and if a State becomes a Party to the Statute after its entry into force, the Court may exercise its jurisdiction over crimes committed after the entry into force of this Statute for that State, unless that State has made a separate declaration accepting the Court's jurisdiction over the crime in question.²⁴⁶ For the Court to exercise its jurisdiction, the following conditions must be met:

- One or more of the parties to a case is a national of a State party to the Statute, or has accepted the jurisdiction of the Court in accordance with paragraph 3;
- The State on the territory of which the conduct in question occurred is a party to the Statute, or has accepted the jurisdiction of the Court in accordance with paragraph 3;
- If the crime was committed on board a vessel or aircraft, the State of registration of that vessel or aircraft is a party to the Statute, or has accepted the jurisdiction of the Court in accordance with paragraph 3.

Legal Status of Armed Resistance

Resistance to occupation by force of arms, is wholly legitimate in the light of public international law, although controversies among States have emerged with the further development of the relevant provisions in General Assembly resolutions. By 1961, the General Assembly had adopted "The Declaration on the Granting of Independence to

Colonial Countries and Peoples.”²⁴⁷ The Assembly acclaimed the principles that “the process of liberation is irresistible and irreversible” and that “all armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected.”²⁴⁸ Thus, the international community at the time recognized the illegitimacy of the use of force by States to repress legitimate aspiration of peoples to liberate themselves from “alien subjugation, domination and exploitation.”

In 1970, the General Assembly (GA) adopted resolution A/2708, which recognized “the legitimacy of the struggle of colonial peoples and peoples under alien domination to exercise their right to self-determination and independence by all means at their disposal.”²⁴⁹ The GA also reaffirmed “the legitimacy of the peoples' struggle for liberation from colonial and foreign domination and alien subjugation by all available means, including armed struggle,” in “Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights,” Also in 1970, the GA affirmed that the continuation of the colonialism in all its forms and manifestations is a crime, and that “colonial peoples” have the inherent right to struggle by all necessary means at their disposal against colonial Powers and alien domination in exercise of their right of self-determination.²⁵⁰

In 1973, the Assembly adopted “Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights.”²⁵¹ The resolution’s Article 2 explicitly reaffirmed “the legitimacy of the peoples' struggle for liberation from colonial and foreign domination and alien subjugation by all available means, including armed struggle.” One month later, the GA adopted “Basic principles of the legal status of the combatants struggling against colonial and alien domination and racist régimes.”²⁵² It sought to advance the protection of combatants in the resistance against alien domination and established that “The violation of the legal status of the combatants struggling against colonial and alien domination and racist régimes in the course of armed conflicts entails full responsibility in accordance with the norms of international law.”²⁵³

While the serial resolution of the GA indicate a record of international recognition for the legal status of liberation and non-State combatants, the progression of the voting pattern on each succeeding resolution indicates also a polarization in the Assembly. Western States increasingly voted against the resolutions recognizing the legitimacy of armed struggle not because of their opposition to self-determination, but out of conviction that only internationally recognized States should wield armed force. The ideological divide has widened in the current global “war against terror.”

ANNEX 2 Relevant Quotes

<p>1948–53</p> <p>“These operations can be carried out in the following manner: either by destroying villages (by setting fire to them, by blowing them up, and by planting mines in their debris) and especially of those populations centers which are difficult to control continuously; or by mounting combing and control operations according to the following guidelines:</p> <ul style="list-style-type: none"> • Encirclement of the villages, • Conducting a search inside them; • In case of resistance, the armed forces must be wiped out and the population expelled outside the borders of the state.” <p><i>Plan Dalet</i>, 10 March 1948</p>
<p>“You have to blow up twenty houses and kill as many <i>warriors</i> as possible” [emphasis added].</p> <p><i>Orders of Yigal Allon for the attack on Sa`sa` (1949)</i>²⁵⁴</p>
<p>“We left behind 35 demolished houses and 60–80 dead bodies.”²⁵⁵</p> <p><i>Moshe Kalman reporting on the attack on Sa`sa` (1949)</i></p>
<p>"Bombs were thrown through the windows of huts in which the refugees were sleeping and, as they fled, they were attacked by small arms and automatic weapons. The casualties were 20 killed, 27 seriously wounded, and 35 less seriously wounded."</p> <p><i>General Vagn Bennike, the Danish UN Truce Chief, reporting to the Security Council on the massacre at al-Burajj Refugee Camp (1953)</i>²⁵⁶</p>
<p>Lebanon 1993</p> <p>"70 percent of the village of Jibshit is totally destroyed, its inhabitants will not recognize it." Another senior Israeli officer is quoted as adding that the goal was "to wipe the villages from the face of the earth."</p> <p><i>Israeli army spokesperson</i>²⁵⁷</p>
<p>Lebanon 1996</p> <p>"Unfortunately, the only way to stop Hezbollah actions against the Israeli forces in south Lebanon is to inflict heavy blows on the passive population.... Then Hezbollah would be loathed."</p> <p><i>Israeli Defense Official Yitzhak Bailey in advance of July 206 War on Lebanon, 1995</i>²⁵⁸</p>
<p>"The residents in south Lebanon who are under the responsibility of Hezbollah will be hit harder, and the Hezbollah will be hit harder, and we will find the way to act correctly and quickly."</p> <p><i>Maj.-Gen. Amiram Levine</i>²⁵⁹</p>
<p>"It is unlikely that the shelling of the United Nations compound was the result of gross technical and/or procedural errors."²⁶⁰</p> <p><i>UN Secretary-General's Military Adviser Franklin van Kappen on Israeli attack on Qana, 1996</i></p>
<p>"In my opinion, everything was done according to clear logic and in a responsible way. I am at peace."</p> <p><i>Israeli Prime Minister Shimon Peres, in response to UN Board of Inquiry findings on Qana, 1996</i>²⁶¹</p>
<p>Gaza, 2003</p> <p>"The IDF [Israeli Defence Forces] has to knock down all the houses along a strip of 300 to 400 metres [wide]. It doesn't matter what the future settlement will be, this will be the border with Egypt."</p> <p><i>Former head of the Israeli army's southern command for Gaza, Colonel Yom Tov Samya</i>²⁶²</p>

Lebanon, 2006

"These places are not villages. They are military bases in which Hizbullah are hiding and from which they are operating...All those now in south Lebanon are terrorists who are related in some way to Hizbullah."

*Israeli Minister of Justice Chaim Ramon*²⁶³

We're skipping the stage of threats and going straight to action. The goal is for this incident to end with Hizbullah so badly beaten that not a man in it does not regret having launched this incident."²⁶⁴

Israeli Defence Minister, Amir Peretz

Gaza, 2008–09

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

*An Israeli company commander in a security briefing to soldiers during Operation "Cast Lead."*²⁶⁵

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

*Israeli soldier quoted February 2009*²⁶⁶

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

*Amir Marmor, tank crew gunner of a reserve armoured battalion that operated in Jabaliya*²⁶⁷

"... We don't want to kill innocent civilians. 'He goes, 'Yeah? Anyone who's in there is a terrorist, that's a known fact. 'I said, 'Do you think the people there will really run away? No one will run away. 'He says, 'That's clear,' and then his buddies join in: 'We need to murder any person who's in there. Yeah, any person who's in Gaza is a terrorist."

*Israeli soldier quoted in March 2009*²⁶⁸

"Three artillery shells we understand landed outside the southeast corner of the Jabalya preparatory girls' school resulting in at least 30 fatalities and 55 injuries of which 15 are in critical condition.

"Hundreds of people were taking refuge in the school from the fighting. We have given all our GPS coordinates to the Israeli army. We have told them exactly where all our facilities are in the Gaza Strip and all of our facilities are clearly marked. So it should have been quite obvious where the UN facilities are."

*UNRWA spokesperson Chris Gunness*²⁶⁹

"Well before the current fighting, the UN had given to the Israeli authorities the GPS coordinates of all its installations in Gaza..."

"These deaths highlight the tragic reality of the situation in Gaza that for civilians, neither homes nor UN shelters are safe.

"Nearly one and a half million civilians are dangerously exposed to the fighting around them. There are no safe places to flee."

"As one of the most densely populated places in the world, it is clear that more civilians will be killed; more homes, buildings and civilian infrastructure will be destroyed, if the conflict continues."

*UN humanitarian Coordinator Maxwell Gaylard*²⁷⁰

"...the idea of demolishing houses or razing the neighborhood is twofold: on the one hand there's the operational necessity, that's what we heard all the time. I recall having constantly heard this over our radio. the idea that we are not to jeopardize Israeli soldiers by entering a house where we don't know what's in it, or entering areas with the risk of explosive charges, and therefore from experience that many of the houses, whether every second or fifth house, various things were said – anyway a significant part of the houses were booby trapped, some of them had tunnels, others mortars fired by remote control, such stuff, those were things we saw. That was one reason to demolish a house, and that could entail a more massive shelling."

Or that it's a house [of a house] that a D9 bulldozer would take care of, and if not – possibly artillery and even Corps of Engineers, in other words, blast it to high heaven. If not, it could be shelled, but more thoroughly... So the first reason, as I said, was to protect our forces, let's put it that way, aiming to risk our men as little as possible. We'd demolish suspect houses – that was one thing. The other reason was already brought up at the preliminary briefing at Tze'elim, in fact, part of the concept of razing was what the Israeli army calls 'the day after' consideration. Obviously this campaign would end at some point, clearly there was no intention to come back and take over the Gaza strip, it was obvious we'd leave eventually. The question was in what condition we'd leave the area, whether more exposed, a state that would afford us better firing and observation conditions, and far greater control. This was the principle behind all that razing, namely razing for our benefit.

Q: What was the exact wording at the preliminary briefing?

"The day after." Razing was done with the day after our leaving in mind, that we would want this ability, outright, this field of vision and range of fire. The expression "the day after" was repeated time and again, even as we were still in action.

Testimony of a soldier from the Armored Corps Brigade, sent in to replace the Gi'vati (Infantry Brigade), "Testimony 2, House Demolitions," in Breaking the Silence, Operation Cast Lead, July 2009, pp. 8–9.

"– if you're not sure, kill. Fire power was insane. We went in and the booms were just mad. the minute we got to our starting line, we simply began to fire at suspect places. Also, it was still dark when we went in. We got there just before dawn. You see a house, a window, shoot at the window. You don't see a terrorist there? Fire at the window. It was real urban warfare. This is the difference between urban warfare and a limited confrontation. In urban warfare, anyone is your enemy. No innocents. It was simply urban warfare in every way. We went in there house after house, going around each other every time. 99% of the houses were empty."

"Testimony 7, Rules of Engagement," in Breaking the Silence, Operation Cast Lead, July 2009, pp. 18.

Q: It's a city, you know. Flyers were distributed, but people are bound to be on the move, obviously there would be civilian traffic. It's not a military area. People live there. No one addressed this in briefings? Commanders, anyone? No distinction was to be made between people and civilians, such as would escape in your directions? There are plenty of possible scenarios.

That's right. No special mention was made of innocents.

"Testimony 8, Rules of Engagement & Use of White Phosphorous," in Breaking the Silence, Operation Cast Lead, July 2009, pp. 19.

There was a clear feeling, and this was repeated whenever others spoke to us, that no humanitarian consideration played any role in the army at present. "You will stay inside the tanks the whole time." We talked about practical matters, but the basic approach to war was very brutal, that was my impression. Perhaps others felt differently. He said something along the lines of "don't let morality become an issue. That will come up later." He had this strange language: "Leave the nightmares and horrors that will come

up for later, now just shoot." this was the spirit of things, more or less.

...He [brigade commander] took us for a patrol to see what urban combat would look like in a tank, and there too, the basic approach, the lesson he tried to get across to us, was that there were no chances taken. if you face an area that is hidden by a building – you take down the building. Questions such as "who lives in that building" are not asked. Whatever gets in your way, you do everything to prevent its getting in your way, regardless of the humanitarian implications of such an action. This was the spirit of things with anyone we happened to talk to. Let's say that the issue of 'purity of arms' did not come up at all in these talks.

"Testimony 10 – Briefings," in Breaking the Silence, Operation Cast Lead, July 2009, pp. 25–28.



HOUSING AND LAND RIGHTS NETWORK

Habitat International Coalition

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Dear Ms. Marotta:

It is with profound appreciation for the efforts of the UN Fact-finding Mission on the Gaza Conflict that the Habitat International Coalition's Housing and Land Rights Network (HIC-HLRN) submits the attached contribution to the Mission's findings, "Targeting Shelters and Shelter Seekers during Operation Cast Lead in the Context of Israeli Military Practice."

This submission summarizes the results of the HIC-HLRN inquiry into the events and context of Israel's military targeting of civilian shelters and shelter seekers during the Gaza Conflict of December 2008–January 2009. By understanding these actions in their context, a continuity of practice emerges from a series of related investigations, including a desk study of primary and secondary sources and field research on the part of our Member organizations in the Gaza Strip, as well as HIC-HLRN fact-finding missions to Lebanon following the "July War" in 2006, reports and observations of previous Israeli military operations in Gaza over the past seven years, and other antecedents of the same practice that arise from the historic record of Israel's military operations in Palestine, Lebanon and Syria since 1948.

The HIC-HLRN investigation conducted for the purpose of this submission initially was intended merely to draw upon the comparable practices in the recent Gaza Operation "Cast Lead" and the 2006 war on Lebanon, in order to demonstrate the continuum of the military targeting of civilian shelters and shelter seekers in close succession. However, the scope necessarily widened as further antecedents of Israel's military targeting of shelters and shelter seekers revealed themselves in a wider pattern that we find would render any analysis inadequate without acknowledging analogous attacks on civilian targets in preceding examples by the same author. In some cases, those attacks have been repeated against the same civilian target, as in the cases of Dayr Ayūb, Palestine (1947–48) and Qana, Lebanon (1996, 2006). Such cases also encompass the patterned attacks on shelters for displaced civilians, including those operated by the UN, whose protection officially was guaranteed through close coordination with Israeli authorities (e.g., Jericho Camp, 1967; Qana, 1996; Qana, 2006 and Khan Yūnis, Jabāliya and Bayt Lāhiya, etc., 2009, among others).

This report also relies upon documented statements of Israeli political and military officials, where possible, to verify the deliberate nature of those attacks. In addition to the relevant citations within the body of this report, it also features an annex of other such citations, with their original references, presented in chronological order. Those include the pronouncements of adopted policy to attack civilian homes, as in Plan Dalet (1948), continued and reaffirmed even in the testimonies of Israeli soldiers serving in Operation Cast Lead (2009). Together, the record of such patterned and witting strikes on civilian shelters and shelter seekers indicates that the Israeli practice is both repetitive and intended.

The conclusion to this inquiry also recounts how Israeli urban warfare doctrine has evolved through serial wars against neighbouring states, particularly through a reliance upon aerial attacks (increasingly favored overground assaults) on Palestinian, Jordanian, Lebanese and Syrian cities, towns and villages. However, Israel's practice of ground warfare, not least in the destructive "day after" policy applied in Gaza Strip, indicates how the destruction of civilian homes and, indeed, entire neighbourhoods, remains a constant of that urban warfare doctrine, whether or not any threat to Israeli ground troops is perceived.

The consequences for civilians have been increasingly deadly. Meanwhile, however, no judicial forum has addressed the international humanitarian law (IHL) or human rights dimensions of these acts through prosecutions or reparations. No domestic Israeli body has yet accepted to take up such an inquiry, except for purposes of official exoneration, while the Israeli press and NGO community have been more diligent in their inquiries. Only one of the reasons for the international judicial omissions is the fact that previous international investigations have been constrained by such narrow terms of reference as to preclude the contextual and comparative analytical method needed to allow the pattern and deliberate nature of such attacks on civilian shelters and shelter seekers to emerge clear.

Thus, this submission—like the UN Fact-finding Mission on the Gaza Conflict—promises to be different. In order to correct the omissions that repeatedly have ensured impunity and the denial of remedy, including reparations, for civilian victims of these crimes, that violative continuum must end. An annex to this submission offers a summary of the legal aspects of the military targeting of shelters and shelter seekers as a resource for the members of the Mission, in order to support their role in ending the cycle of impunity in and around Palestine that has undermined worldwide confidence in the rule of international law. Gaza now stands as a testing ground for legal norms and remedy that promise to restore some of that lost faith.

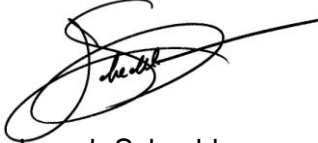
This HIC-HLRN inquiry is by no means exhaustive and points to the need for further inquiry into this type of crime, whether conducted by Israel, other states or nonstate actors. (Available information does not suggest similar tactics employed by the supposed counterpart of Israel's war on Gaza, Hamas, whose randomly fired and unguided missiles occasionally struck homes in Israel.) This inquiry does shed needed light on a category of war crime that involves wanton destruction of property, combined with multiple violations of the IHL principles of distinction and the prohibition against collective punishment. From the human rights perspective, the available evidence also points to a need for attention to violations of economic, social and cultural rights—in this case, the human right to adequate housing—that, in Gaza, have risen to the level of war crimes and crimes against humanity. Reparations, including prosecution of perpetrators, is the legal norm now to be upheld and perhaps the only response that deserves the name "peace process."

We do hope that the attached report, "Targeting Shelters and Shelter Seekers during Operation Cast Lead in the Context of Israeli Military Practice," is constructive and helpful to the Mission's

forensic process, and we look forward to the Mission's report and the recommendations for remedy that these violations and crimes require.

In the meantime, please know that HIC-HLRN appreciate the gravity of the Mission's task, and reassure you and the Mission of our highest consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Joseph Schechla", written over a circular scribble.

Joseph Schechla
Coordinator, HIC-HLRN

Endnotes

- ¹ In this report, “restitution” is used as a term defined in the General Assembly resolution “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, A/RES/60/147, 21 March 2006.
- ² “Summary by the Secretary-General of the report of the United Nations Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009,” A/63/855 and S/2009/250, 15 May 2009, [hereinafter: Board of Inquiry], p. 4.
- ³ “Summary by the Secretary-General of the report of the United Nations Headquarters Board of Inquiry into certain incidents in the Gaza Strip between 27 December 2008 and 19 January 2009,” A/63/855 and S/2009/250, 15 May 2009, pp. 5–6.
- ⁴ Ibid, pp. 6–7.
- ⁵ Ibid, pp. 7–9.
- ⁶ Ibid., p. 14.
- ⁷ Ibid., 14–16.
- ⁸ Ibid, throughout.
- ⁹ Witte and Raghavan, op. cit.
- ¹⁰ B’Tselem, “Israel is using phosphorous illegally in Gaza Strip bombings,” 12 January 2009, at: http://www.btselem.org/English/gaza_strip/20090112_use_of_white_phosphorus.asp.
- ¹¹ See Rovena, op. cit., p. 56.
- ¹² Testimony of a soldier from the Armored Corps Brigade, sent in to replace the Gi’vati (Infantry Brigade), “Testimony 2, House Demolitions,” in Breaking the Silence, *Operation Cast Lead*, July 2009, pp. 8–9.
- ¹³ Donatella Rovera, *Operation “Cast Lead”: 22 Days of Death and Destruction* (London: Amnesty International, 2 July 2009), pp. 4, 24–36. See also Ghada Abu Halima’s account of the incident to Israeli human rights organization B’Tselem, “Testimony: Members of Abu Halima family killed and burned in army’s bombing of their house, 3 January 2009” at: http://www.btselem.org/English/Testimonies/20090104_Abu_Halima_home_set_on_fire_by_shelling.asp. Ghada Abu Halima died of her wounds on 29 March 2009, in an Egyptian hospital.
- ¹⁴ UNRWA statistics as of 31 December 2008, at: <http://www.un.org/unrwa/publications/index.html> and <http://www.un.org/unrwa/refugees/gaza.html>.
- ¹⁵ Ibrahim Barzak and Matti Friedman, “Israeli troops advance deep into Gaza, Palestinian gunmen provide fierce resistance,” *Associated Press (AP)* (11 January 2009), at: http://www.sunsentinel.com/news/nationworld/snsapmlisraelipalestinians_0_4532899_story.
- ¹⁶ Al Mezan Center for Human Rights, “IOF Continue to Raid Homes, Destroy Them on Their Residents Death Toll in Gaza Rises to 830, including at Least 194 Children and 58 Women,” press release, 10 January 2009.
- ¹⁷ Al Mezan Center for Human Rights, Humanitarian Crisis Deepens as IOF Escalates Its Aggression: Thousands of Gazans Isolated under Scarcity of Food, Power, Healthcare and Water; Press Release, 13 January 2009.
- ¹⁸ Rovera, op. cit., pp. 23–24.
- ¹⁹ Israel Defence Forces Spokesperson, “IDF Investigation Results, Dr. Abu El-Eish Residence,” 4 Feb 2009, 17:08 IST, at: <http://idfspokesperson.com/2009/02/04/idf-investigation-results-dr-abu-el-eish-residence-4-feb-2009-1708-ist/>.
- ²⁰ Jeremy Bowen, “Gaza stories: Israeli minister,” BBC News (9 February 2009), at: http://news.bbc.co.uk/2/hi/middle_east/7878711.stm.
- ²¹ Rovena, op. cit., p. 54.
- ²² Amnesty International, op. cit., p. 4. See also League of Arab States, “Report of the Independent Factfinding Committee on Gaza: No Safe Place,” 30 April 2009.
- ²³ OCHA, “Protection of Civilians Weekly Report, 1–8 January 2009,” at: <http://unispal.un.org/unispal.nsf/47d4e277b48d9d3685256ddc00612265/728f5c23074b54308525753900731d0b!OpenDocument>; also Barzak and Friedman, op. cit.
- ²⁴ Al Mezan, 11 January 2009, op. cit.
- ²⁵ Office for the Coordination of Humanitarian Affairs (OCHA) had confirmed that: “Growing pockets of Gazans are trapped in their homes... Gazans cannot flee to safety or access food because of Israeli ground forces in the area. In addition to dropping leaflets over areas including northern Gaza, the entire eastern border of Gaza and Rafah, the Israeli army is broadcasting messages over local radio and television stations and phoning people all over the Gaza Strip, ordering people to evacuate their homes and go to urban areas. Panicked, people are fleeing amidst gunfire and shelling.” “Situation Report from the Humanitarian Coordinator” (7 January 2009), at: http://www.ochaopt.org/documents/ocha_opt_gaza_humanitarian_situation_report_2009_01_07_english.pdf.
- ²⁶ Palmach’s Yaftah Brigade (2,000 soldiers), Hareil Brigade (2,000) and Hanigh Brigade (2,000); as well as the other brigades: Larmili Brigade (2,238), Golani Brigade (3,588), Alexandroni Brigade (3,588), Kiriati Brigade (2,504), Ghafaeti Brigade (3,229), Shifae Brigade (800) and Atsioty Brigade (3,166). In addition, 4,161 soldiers served also in artillery, engineering, air force and transport services.

- ²⁷ Ilan Pappe, *The Ethnic Cleansing of Palestine* (Oxford: One World, 2006), p. 40.
- ²⁸ *Ibid.*, pp. 56.
- ²⁹ *The New York Times* (20 December 1947), and speech by Ben Gurion to the Zionist Executive, 6 April 1948, in *ibid.*, 56–57.
- ³⁰ Menachem Begin, *The Revolt* (New York: H. Schuman, 1954; Tel Aviv: Hadar, 1964). Also Ahmad H. Sa'di and Lila Abu Lughod, *Nakba: Palestine, 1948, and the Claims of Memory (The Cultures of History)* (), pp. . On 7 January 1948, Irgunists also used the barrel bomb technique by rolling an explosive barrel loaded with scrap metal into a crowd at a bus stop near Jaffa Gate, killing 17 Arabs and wounded 50 more. "Role of Jewish Defense Forces, 1903–1948," *Jewish Virtual Library*, at: <http://www.jewishvirtuallibrary.org/jsource/History/defense.html>. Photo, at: <http://dancutlermedicalart.com/AlbertEinstein%27sZionism/07Einstein%27sZionism1940-1949.htm>.
- ³¹ Donald Neff, "Arab Jaffa Seized Before Israel's Creation in 1948," *Washington Report on Middle East Affairs* (April/May 1994), p. 75.
- ³² Pappe, *op. cit.*, p. 40.
- ³³ According to *The New York Times* (16 April 1948).
- ³⁴ Pappe, *op. cit.*, pp. 77–78, apparently relying on Israel Even Nur, ed., *The Yiftach Palmach Story*.
- ³⁵ Developed under the guidance of Ben Gurion and with the expertise of chemistry professor Sasha Goldberg. Pappe, *op. cit.*, p. 76.
- ³⁶ Ghazi Falah, "Israeli State Policy toward Bedouin Sedentarization in the Negev," *Journal of Palestine Studies*, Vol. 18, No. 2 (1989) 71 at 78–79.
- ³⁷ Abba Eban, "Tragedy and Triumph," in Meyer W. Weisgal and Joel Carmichael, eds., *Chaim Weizman: A Biography by Several Hands* (London: Weidenfeld and Nicolson, 1962), pp. 301–02; also Chaim Weizmann, *Trial and Error: The Autobiography of Chaim Weizmann* (Jewish Publication Society of America, 1949), p. 457–59.
- ³⁸ Emanuel Marx, *The Bedouin of the Negev* (Manchester: Manchester University Press, 1967), p. 12; Ghazi Falah, "How Israel Controls the Bedouin" *Journal of Palestine Studies*, Vol. 14, No. 2 (1985), p. 36.
- ³⁹ Penny Maddrell, *The Bedouin of the Negev* (London: Minority Rights Group, 1990), p. 6.
- ⁴⁰ Although identity cards were issued in 1952, many expulsions into Egypt and Jordan continued beyond that date. As many as 7,000 Bedouin may have been expelled in 1953, and mass expulsions to Egypt and Jordan are recorded as late as 1959. Falah, *op. cit.*, p. 43; Maddrell, *op. cit.*, p. 6.
- ⁴¹ Salman Abu Sitta, *Palestine 1948: Commemoration of al-Nakba: The Towns and Villages Depopulated by the Zionist Invasion of 1948* [map] (London: Palestine Return Centre, 1998). The figure of 84 total localities depopulated and demolished is derived from the number of depopulated localities after 1948 in Bi'r Saba` District outside the border of the *siyāj*.
- ⁴² "1953 Retribution Acts (Pe'ulot Tagmul)," Ariel Sharon – Life Story: A Biography, at: <http://www.ariel-sharon-life-story.com/03-Ariel-Sharon-Biography-1953-Retribution-Acts-Peulot-Tagmul.shtml>.
- ⁴³ "SHATIL and the War in Gaza: Despite Difficulties, Staff Gears up to Help Southern NGOs," 8 January 2009, at: <http://www.nif.org/issueareas/stories/shatilandthewaringaza.html>.
- ⁴⁴ 1953 Retribution Acts (Pe'ulot Tagmul), at: <http://www.ariel-sharon-life-story.com/03-Ariel-Sharon-Biography-1953-Retribution-Acts-Peulot-Tagmul.shtml#top>.
- ⁴⁵ Benny Morris, *Israel's Border Wars, 1949/1956: Arab Infiltration, Israeli Retaliation and the Countdown to the Suez War*, Oxford University Press, 1993, pp. 258–59.
- ⁴⁶ Benny Morris, *Israel's Border Wars*, *ibid.* pp. 257–76. esp. p. 249, 262.
- ⁴⁷ The Department of State issued a statement on 18 October 1953, expressing its "deepest sympathy for the families of those who lost their lives" in the Qibya attack as well as the conviction that those responsible "should be brought to account and that effective measures should be taken to prevent such incidents in the future" (Department of State Bulletin, 26 October 1953, p. 552). See also the tripartite communiqué of 18 October 1953; *supra*, pp. 1467–68. For background discussion see Report of the Security Council to the General Assembly Covering the Period from 16 July 1958 to 15 July 1954 (A/2712), pp. 6–15, and United States Participation in the United Nations: Report by the President to the Congress for the Year 1953 (Department of State publication 5459, 1954), pp. 75–77.
- ⁴⁸ "None deplores it more than the Government of Israel, if...innocent blood was spilled... The Government of Israel rejects with all vigor the absurd and fantastic allegation that 600 men of the IDF took part in the action... We have carried out a searching investigation and it is clear beyond doubt that not a single army unit was absent from its base on the night of the attack on Qibya. (Statement by Prime Minister David Ben-Gurion, ISA FM 2435/5), at: http://www.absoluteastronomy.com/topics/Qibya_massacre.
- ⁴⁹ UN Doc S/PV.630, 27 October 1953.
- ⁵⁰ Pappe, *op. cit.*
- ⁵¹ "Report of the Secretary-General under General Assembly resolution 2252 (ES-V) and Security Council resolution 237 (1967)," A/6797, 15 September 1967, para. 54.
- ⁵² Amos Kenan, a reservist Israeli soldier, took part in the 1967 fighting in the area of the three demolished Palestinian villages of Beit Nuba, Yalu and Amwas (Emmaus). He stated in a report to members of Knesset: "The commander of my platoon said that it had been decided to blow up the three villages in the sector—Yalu, Beit Nuba and

Amwas—for reasons of strategy, tactics, security. In the first place, to straighten out the Latrun "finger." Secondly, in order to punish these murderers' dens. And thirdly, to deprive infiltrators of a base in future. One may argue with this idiotic approach, which advocates collective punishment and is based on the belief that if the infiltrator loses one house, he will not find another from which to wait in ambush. One may argue with the effectiveness of increasing the number of our enemies but why argue? We were told it was our job to search the village houses; that if we found any armed men there, they were to be taken prisoner. Any unarmed persons should be given time to pack their belongings and then told to get moving—get moving to Beit Sira, a village not far away. We were also told to take up positions around the approaches to the villages, in order to prevent those villagers who had heard the Israeli assurances over the radio that they could return to their homes in peace from returning to their homes. The order was shoot over their heads and tell them there is no access to the village." Amos Kenan, *Israel, a Wasted Victory* (Tel Aviv: Amikam Publishers Ltd, 1970), pp. 18–21.

⁵³ Ibid, p. 15.

⁵⁴ Ibid.

⁵⁵ Peter Dodd and Halim Barakat, *River without Bridges: A Study of the Exodus of the 1967 Palestinian Refugees* (Beirut: Institute for Palestine Studies, 1968).

⁵⁶ Arthur C. Forrest, *The Unholy Land* (Toronto: McClelland & Stewart Limited, 1971–72), pp. 15–17.

⁵⁷ "Letter Dated 13 September 1974 from the Permanent Representative of Algeria to the United Nations Addressed to the SecretaryGeneral," S/11508, 13 September 1974, at:

<http://unispal.un.org/unispal.nsf/eed216406b50bf6485256ce10072f637/edf3ad722d348eb08525714d0058ac8f?OpenDocument>.

⁵⁸ See SC/280 (1970), 19 May 1970, adopted at the 1542nd meeting by 11 votes to none, with four abstentions (Colombia, Nicaragua, Sierra Leone, United States of America).

⁵⁹ George E. Irani, 'Meanwhile in Lebanon...', *The Link*, vol. 29, nr 2, April/May 1996.

⁶⁰ "Letter dated 24 July 1975 from the Permanent Representative of Lebanon to the United Nations addressed to the SecretaryGeneral," A/10161, S/11776, 24 July 1975.

⁶¹ Reportedly, Chief of Staff Rafael Eytan dedicated eight months to devising the invasion plan, and Minister of Defense Ariel Sharon claimed that he had spent three years in the planning. See Yezid Sayigh, Israel's Military Performance in Lebanon, June 1982," *Journal of Palestine Studies* Vol. 13, No.1 (1983), p. 32.

⁶² Yezid Sayigh, "Israel's Military Performance in Lebanon," *Journal of Palestine Studies* Vol. 13, no. 1, (autumn 1982).

⁶³ Seán MacBride, Richard Falk, Kader Asmal, Brian Bercusson, Gérard de la Pradelle, Stefan Wild, *Israel in Lebanon: Report of the International Commission to enquire into reported violations of International Law by Israel during its invasion of the Lebanon* (London: Ithaca Press, 1983).

⁶⁴ Estimates of the fatalities vary from 700 (the official Israeli count) to 3,500. Robert Fisk, one of the first journalists to visit the scene, quotes unnamed Phalangist officers as saying "that 2,000 Palestinians—women as well as men—had been killed in Chatila." In a 2002 article, Fisk speaks of "1700 civilians murdered." Robert Fisk, "Elie Hobeika: ladykiller and bloodsoaked war criminal," *The Independent* (25 January 2002). The Palestinian Red Crescent put the number killed at over 2,000, as cited in Ze'ev Schiff and Ehud Ya'ari, *Israel's Lebanon War* (New York: Simon and Schuster, 1984).

The Israeli journalist Amnon Kapeliouk arrived at about 2,000 bodies disposed of after the massacre from official, and Red Cross sources and "very roughly" estimated 1,000–1,500 other victims disposed of by the Phalangists themselves. His total of 3,000–3,500 is frequently quoted. Amnon Kapeliouk, translated and edited by Khalil Jahshan, *Sabra & Chatila: Inquiry Into a Massacre* (November 1982), English edition of *Sabra et Shatila: Enquete sur un massacre* (Paris: Seuil, 1982).

⁶⁵ "Note verbale dated 28 January 1985 from the Permanent Mission of the Hashemite Kingdom of Jordan to the United Nations Office at Geneva addressed to the Centre for Human Rights," E/CN.4/1985/35, 28 January 1985, at:

<http://unispal.un.org/unispal.nsf/eed216406b50bf6485256ce10072f637/80f8b609a833bde78525735a0060bf00?OpenDocument>.

⁶⁶ In years without sources, the figures were arrived at through interviewing Israeli government or military personnel, or by collecting Palestinian testimonies. The data was compiled by Jeff Halper, executive director, ICAHD, at: <http://www.icahd.org/eng/articles.asp?menu=6&submenu=2&article=402>.

⁶⁷ 2,781 military, 1,966 administrative.

⁶⁸ George Emile Irani, "Spain, Lebanon and UNIFIL," *real instituto elcano*, (20 May 2008), at: http://www.realinstitutoelcano.org/wps/portal/rielcano_eng/Content?WCM_GLOBAL_CONTEXT=/Elcano_in/Zonas_in/Defense+Security/DT212008#sdfootnote4anc.

⁶⁹ United States Committee for Refugees and Immigrants, "World Refugee Survey: Lebanon" (1997), at: <http://www.refugees.org/countryreports.aspx?id=973>.

⁷⁰ See *Lebanese Israeli Negotiations: Chronology, Bibliography, Documents, Maps* (Antelias, Lebanon: CEDRE, The Lebanese Center for Documentation and Research, 1984).

⁷¹ Human Rights Watch (HRW), "Civilian Pawns: Laws of War Violations and the Use of Weapons on the Israel-

-
- Lebanon Border" (1996), at: <http://www.hrw.org/legacy/reports/1996/Israel.htm>.
- ⁷² Ibid.
- ⁷³ Report of Mark Nicolson, *Financial Times*, cited in Noam Chomsky, "'Limited War' in Lebanon," *Z Magazine* (September 1993), at: <http://almashriq.hiof.no/lebanon/300/350/355/aprilwar/LimitedWarinLebanon.html>.
- ⁷⁴ Ibid.
- ⁷⁵ HRW, "Israel/Lebanon: 'Operation Grapes of Wrath': The Civilian Victims," at: <http://hrw.org/reports/1997/isrleb/Isrleb.htm>.
- ⁷⁶ Craig Bertram, Sam Bernstein, Khalil Iskarous and Leela Yellesetty, "Peres' history contradicts his peaceful image," *Yale Daily News* (5 December 2006), at: <http://www.yaledailynews.com/articles/view/19230>.
- ⁷⁷ Shlomi Afriat, *Israel vows retaliation for Lebanon rocket attacks*, Reuters, (9 April 1996).
- ⁷⁸ David Rudge, "Two wounded in Katyusha attacks," *The Jerusalem Post* (18 April 1996), cited in HRW, "Civilian Pawns," op. cit.
- ⁷⁹ "Israel Hits Lebanon Again, US Offers Peace Plan," *Reuters*, April 16, 1996, citing UNIFIL sources.
- ⁸⁰ Haitham Haddadin, "Israeli Blitz Spares Nothing," *Reuters* (16 April 1996).
- ⁸¹ "Report dated 1 May 1996 of the Secretary-General's Military Adviser concerning the Shelling of the United Nations Compound at Qana on 18 April 1996," S/1996/337, 7 May 1996, P. 7, 10.
- ⁸² James Walsh, "Anatomy of a Tragedy," *Time International*, Vol. 147, no. 21 (20 May 1996), at: <http://www.time.com/time/international/1996/960520/qana.html>.
- ⁸³ Berman *et al*, op. cit.
- ⁸⁴ "Open Letter from Gaza to the Government and People of Spain," *Arabic Media Internet Network*, at: <http://amin.org/sendEmail.php?t=ENews&id=2931>.
- ⁸⁵ OMCT/HIC-HLRN Joint Urgent Action Appeal: "Israel begins destruction of 'hundreds of homes' in Rafah: 2,197 people already left homeless in 15 days, at least 15 killed," Case ISR-FE 190504.ESCR, at: <http://www.hlrn.org/img/cases/ISR-FE%20190504.ESCR%20final.doc>.
- ⁸⁶ Associated Press, "Security Council presented with 3 resolutions on Rafah raid," *Ha'aretz* (19 May 2004), at: <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=429424&contrassID=1&subContrassID=1&sbSubContrassID=0&listSrc=Y>.
- ⁸⁷ "Hundreds of Rafah homes slated for demolition," *Ha'aretz* (17 May 2004), at: <http://www.haaretz.com/hasen/spages/428164.html>.
- ⁸⁸ Chris McGreal, "Death of a Town," *The Guardian* (28 October 2003), at: <http://www.guardian.co.uk/world/2003/oct/27/israel1>.
- ⁸⁹ Resolution 1544 (2004, adopted by the Security Council at its 4972nd meeting, 19 May 2004, at: <http://unispal.un.org/unispal.nsf/85255db800470aa485255d8b004e349a/38315a50277427df85256e9a004c8ff0?OpenDocument>.
- ⁹⁰ Chris McGreal, "Tanks fire shells into family homes," *The Guardian* (7 October 2004), at: <http://www.guardian.co.uk/world/2004/oct/07/israel1>.
- ⁹¹ "UNRWA Gaza Field assessment of IDF Operation Days of Penitence," 20 October 2004, at: http://www.un.org/unrwa/news/incursion_oct04.pdf.
- ⁹² Ibid.
- ⁹³ Office for the Coordination of Humanitarian Affairs (OCHA), *Lebanon Crisis 2006: Revision* (version 2, 2006), p. 6, at: http://www.unicef.org/videoaudio/PDFs/Lebanon_Flash_Revision_VERSION2_2006.pdf.
- ⁹⁴ This numerical fact is corroborated in Human Rights Watch [HRW], "Fatal Strikes," op. cit., p. 14.
- ⁹⁵ The total number of 15,500 sorties includes 1,200 transport missions, over 1,300 reconnaissance missions, and 1,000 combat search-and-rescue missions. It is unknown how many of the 15,000 sorties actually involved delivery of ordnance.
- ⁹⁶ At the end of the second week (30 July), IDF said that its artillery batteries had fired more than 25,000 shells into south Lebanon. IDF also said that the army had carried out broad artillery attacks against rocket launching sites, against "squad of Hizbullah terrorists," and structures and "strongholds" along the border.
- ⁹⁷ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston ; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt; the Representative of the Secretary-General on human rights of internally displaced persons, Walter Kälin; and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari - Mission to Lebanon and Israel, A/HRC/2/7, 2 October 2006, at: <http://daccessdds.un.org/doc/UNDOC/GEN/G06/14/195/PDF/G0614195.pdf?OpenElement>, para. 34. [Hereinafter, "Mission to Lebanon and Israel."]
- ⁹⁸ HRW, "Fatal Strikes," op. cit., pp. 4–5.
- ⁹⁹ For example, the IDF stated, on 19 July 2006, that "Hizbullah terrorists have turned southern Lebanon into a war zone and are operating near population centers there, using civilians as human shields." IDF, "Warnings dropped to Protect Southern Lebanese Civilians" (19 July 2006). On that date also, the Ambassador of Israel to the United Nations Dan Gillerman told CNN: "We are trying to minimize hurting civilians, but when Hizbullah uses civilians as human shields, sometimes civilians will get hurt." CNN, "The Situation Room" (19 July 2006).

- ¹⁰⁰ As the Government of Lebanon (GoL) has stated: "Israel has largely avoided some types of targets: major power plants, water treatment facilities, telephone systems, central government buildings and most factories. The bombing has focused on Shiite areas of southern Lebanon and the Beirut suburbs." GoL, "Setting the stage for long-term reconstruction: The national early recovery process," Stockholm Conference for Lebanon's Early Recovery, 31 August 2006.
- ¹⁰¹ On 25 July 2006, for example, leaflets warned that anyone present in areas from which rockets are being launched would endanger his or her life. Another leaflet dropped on the same day called upon "all citizens south of the Litani River...to evacuate your villages and move north of the Litani River." The Israeli army addressed similar warnings to the population of South Beirut. See www.mfa.gov.il/MFA/Terrorism.
- ¹⁰² Jean-Marie Henckaerts and Louise Doswald-Beck, eds., *Customary International Humanitarian Law*, (Cambridge and New York: Cambridge University Press, 2005), Rule 20. [Hereinafter "ICRC Study."]
- ¹⁰³ Translation from Arabic provided in Israel Ministry of Foreign Affairs, "IDF warns Lebanese civilians to leave danger zones" (25 July 2006) at: <http://www.mfa.gov.il/MFA/Terrorism+Obstacle+to+Peace/Terrorism+from+Lebanon+Hizbullah/IDF+warns+Lebanese+civilians+to+leave+danger+zones+3Aug2006.htm>.
- ¹⁰⁴ HRW, op. cit., pp. 3540.
- ¹⁰⁵ *BBC News* (27 July 2006).
- ¹⁰⁶ "Hizbullah attack/Gov't okays massive strikes on Lebanon; Israel readies for rocket attacks in north," *Ha'aretz* (12 July 2006), at: <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=737827>
- ¹⁰⁷ "Mission to Lebanon and Israel," A/HRC/2/7, op. cit., paras. 38–48.
- ¹⁰⁸ *Ibid.*, paras. 49–51.
- ¹⁰⁹ *Ibid.*, paras. 52–57.
- ¹¹⁰ Israel Defense Forces, Intelligence and Terrorism Information Center at the Center for Special Studies, "The IDF/Hizbullah confrontation (updated on the morning of Thursday, July 20)," 20 July 2006, at: <http://sofia.mfa.gov.il/mfm/web/main/document.asp?DocumentID=71944&MissionID=11>.
- ¹¹¹ "Mission to Lebanon and Israel," op. cit., para. 43.
- ¹¹² For additional detail on cases, see Human Rights Watch, *Why They Died* (September 2007), pp. 79–147.
- ¹¹³ Order of Engineers and Architects, cited in Lebanese Higher Relief Council, *Setting the stage*, op. cit.
- ¹¹⁴ According to Jihad al-Bina' estimates.
- ¹¹⁵ These figures are taken from the *Rapid Preliminary Damage Assessment* (prepared by the European Commission Joint Research Centre and the European Union Satellite Centre with a view to the 31 August 2006, Stockholm Conference on Lebanon's Early Recovery), p. 6, at: <http://www.lebanonundersiege.gov.lb/Documents/rapidpreliminarydamageassessment.pdf>. Buildings include residential buildings, medical facilities, industrial buildings and greenhouses. In Tyre, the only district for which disaggregated data are available, 292 of the 306 destroyed buildings were residential.
- ¹¹⁶ Different sources provide varying data about the number of buildings and housing units destroyed in the Dhahiya, as well as on the population of the destroyed and damaged buildings. For details, see note 60 below.
- ¹¹⁷ "Mission to Lebanon and Israel," op. cit., para. 43.
- ¹¹⁸ *Ibid.*, para. 46.
- ¹¹⁹ Estimates provided by Jihad al-Bina' from database calculations and projections.
- ¹²⁰ For international humanitarian law prohibitions on destroying civilian property, including homes, see Articles 53 and 147 of the Fourth Geneva Convention and Article 52 of Additional Protocol I.
- ¹²¹ UNSC, 21 July 2006; COI, 10 November 2006; OHCHR, 31 July 2006.
- ¹²² Order of Engineers and Architects, cited in Lebanese Higher Relief Council, *Setting the stage*, op. cit., p. 10.
- ¹²³ Meeting with Dr. Bilal, al-Mahdi Scouts, al-Dhahiya, 7 September 2006.
- ¹²⁴ Republic of Lebanon Higher Relief Council, <http://www.lebanonundersiege.gov.lb>.
- ¹²⁵ Republic of Lebanon Higher Relief Council, Department of Administration, "Movement of Displaced," at: <http://www.lebanonundersiege.gov.lb/documents/movementofdisplacedsection.xls>.
- ¹²⁶ Higher Relief Council, at: <http://www.lebanonundersiege.gov.lb/english/F/Info/Page.asp?PageID=129>.
- ¹²⁷ According to Jihad al-Bina' methodology. Interview with Kasseem, Aleik, op. cit. Based on local demographic realities, the quantification method applies a multiplication factor of 4.7 for family units to arrive at a total population figure. Thus, 14,000 families would approximate 65,800 persons.
- ¹²⁸ For additional detail on cases, see Human Rights Watch, *Why They Died* (September 2007), pp. 147–66.
- ¹²⁹ HRW, *Fatal Strikes*, op. cit., p. 15.
- ¹³⁰ *Ibid.*, p. 41. HRW based this case report on the account Lebanese Red Cross Coordinator for Field Activities Georges Kittani, on 25 July 2006; also see Megan K. Stack, "Warfare in the Middle East: Israeli Missiles Rip into Medics' *Esprit de Corps*," *Los Angeles Times* (25 July 2006).
- ¹³¹ Rome Statute, op. cit, Article 8.2(b)(iii).
- ¹³² "Israel halts airstrikes for 48 hours: Attack killing dozens of civilians in Lebanon called a 'mistake'," *CNN.com* (30 July 2006), at:

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- <http://www.cnn.com/2006/WORLD/meast/07/30/mideast.main/index.html>.
- ¹³³ HRW, "Israel/Lebanon: Qana Death Toll at 28," 2 August 2000, at: <http://www.hrw.org/english/docs/2006/08/02/leban013899.htm>; "Qana death toll revised to 28: Lebanese hospital officials," *ZeeNews* (3 August 2006), at: <http://www.zeenews.com/znews/articles.asp?aid=313302&sid=WOR>; Sam F. Ghattas, "HRW, Lebanese Red Cross and civil defense report lower Qana death toll," *Associated Press* (3 August 2006).
- ¹³⁴ Hanan Greenberg, "IDF: Qana building fell hours after strike," *Ynetnews.com* (30 July 2006), at: <http://www.ynetnews.com/articles/0,7340,L3283816,00.html>.
- ¹³⁵ "IDF: Intel. failure caused Kana deaths," *Jerusalem Post* (3 August 2006), at: <http://www.jpost.com/servlet/Satellite?apage=1&cid=1154525796295&pagename=JPost%2FJPArticle%2FShowFull>.
- ¹³⁶ HRW, "Qana Death Toll at 28," op. cit.
- ¹³⁷ Quoted in "Headlines for 31 July 2006," *Democracy Now!*, at: <http://www.democracynow.org/article.pl?sid=06/07/31/1435210>.
- ¹³⁸ For example, see Hillel Fendel, "Evidence Mounts that Kana "Massacre" Was a Fake," *Arutz Sheva* (3 August 2006), at: <http://www.israelnationalnews.com/news.php3?id=109072>.
- ¹³⁹ "Lebanon: UNIFIL press release," *Reliefweb* (12 August 2006), at: <http://www.reliefweb.int/rw/RWB.NSF/db900SID/KKEE6SLPLE?OpenDocument>
- ¹⁴⁰ ICRC, "ICRC deplores increasing number of civilian casualties and lack of respect for medical mission," 12 August 2006, at: <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/lebanonnews120806?opendocument>
- ¹⁴¹ Israel Ministry of Foreign Affairs, "IDF response on convoy hit in south Lebanon," 12 August 2006, at: <http://www.mfa.gov.il/MFA/Government/Communiques/2006/IDF+response+on+convoy+hit+in+south+Lebanon+12+Aug2006.htm>
- ¹⁴²
- ¹⁴³ Richard A. Gabriel, *Operation Peace for Galilee: The Israel/PLO War in Lebanon* (New York: Hill & Wang, 1984); also "Urban Lessons Learned: Operation Peace for Galilee," *The Urban Operations Journal* (28 August 2002), at: <http://www.freerepublic.com/focus/fnews/740602/posts>.
- ¹⁴⁴ "Report dated 1 May 1996 of the Secretary General's Military Adviser concerning the shelling of the United Nations compound at Qana on 18 April 1996," S/1996/337, 7 May 1996, at: <http://domino.un.org/UNISPAL.NSF/0/62d5aa740c14293b85256324005179be?OpenDocument>; also see Robert Fisk, "Massacre in Sanctuary: Eyewitness," 19 April 1996, at: <http://www.robertfisk.com/articles18.htm>.
- ¹⁴⁵ Mordechai Gur, *Towards a New Cold War* (New York: Pantheon, 1982), 320.
- ¹⁴⁶ *Al Hamishmar* (10 May 1978); *Ha'aretz* (15 May 1978), as cited in Tomis Kapitan, ed. *Philosophical Perspectives on the Israeli-Palestinian Conflict* (Armonk NY: M.E. Sharpe, 1997), p. 107.
- ¹⁴⁷ Robert Fisk, "Israel's promise of humanitarian corridors is exposed as a sham," *The Independent* (9 August 2006), at: <http://www.independent.co.uk/opinion/commentators/fisk/robert-fisk-israels-promise-of-humanitarian-corridors-is-exposed-as-a-sham-411109.html>.
- ¹⁴⁸ Jan Egeland and Jan Eliasson, "GAZA's Human Calamity," OHCA, at: <http://ochaonline.un.org/OchaLinkClick.aspx?link=ocha&DocId=1005020>; Nidal Mughrabi, "Gaza 'no place for civilians': ICRC," *Reuters* (12 January 2009), at: <http://www.reuters.com/article/newsMaps/idUSTRE50B4ID20090112>.
- ¹⁴⁹ *Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, I.C.J. Reports 2005, paras. 216-20, 345(3); *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories*, I.C.J. Reports 2004, para. 106; and *Legality of the Threat or Use of Nuclear Weapons*, I.C.J. Reports 1996, para. 25. Although the Court concluded in the Nuclear Weapons Advisory Opinion that "[t]he test of what constitutes an arbitrary deprivation of life ... falls to be determined by the applicable *lex specialis*, namely, the law applicable in armed conflict", more recently, in *Congo v. Uganda*, it found independent violations of human rights law during armed conflict without applying the *lex specialis* principle (paras. 216-219).
- ¹⁵⁰ See Human Rights Committee, general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant (art. 2).
- ¹⁵¹ *UDHR Article 25 states*
- ¹⁵² These 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 (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC). In addition, Israel has ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (CRC-OP-AC).
- ¹⁵³ "Maastricht Guidelines on Violations of Economic, Social and Cultural Rights," Maastricht, 22-26 January 1997, para. 6. The quote derives from Article 2.1 of ICESCR.
- ¹⁵⁴ Article 1: 1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. 2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of

international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence. 3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

¹⁵⁵ Article 2: 2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. 3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals. Article 4: The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

¹⁵⁶ Article 2: 1. Each State Party to the present Covenant undertakes to take steps...achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

¹⁵⁷ Article 2: 1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical...

¹⁵⁸ Article 2: 1. Each State Party to the present Covenant undertakes to take steps...with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means...

¹⁵⁹ General comment No. 3: "The nature of States parties' obligations" (art. 2, para. 1, of the Covenant), fifth session (1990), E/1991/23, para. 1.

¹⁶⁰ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories, Advisory Opinion*, para. 111. The Court reached the same conclusion with regard to the applicability of CRC. *Ibid.*, para. 113. In *Congo v. Uganda*, para. 220, the Court concluded that Uganda was internationally responsible for its violations of international human rights law committed in both occupied and unoccupied sections of the Congo. The Human Rights Committee has clarified 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 party, even if not situated within the territory of the State party." General comment No. 31 (2004), para. 10. See also Human Rights Committee, *Lopez v. Uruguay*, communication No. 52/1979 (CCPR/C/OP/1), paras. 12.1–12.3 (1984).

¹⁶¹ Article 1, para. 3.

¹⁶² Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations (GA 2625, adopted without a vote, 24 October 1970, annex).

¹⁶³ ICCPR, art. 4, para. 1; Human Rights Committee, General Comment No. 29 (2001), para. 3.

¹⁶⁴ CCPR/C/ISR/2001/2, para. 71.

¹⁶⁵ A/58/40, vol. I, p. 64., para. 12. The Human Rights Committee has expressed concern that the article 9 reservation is broader than is permissible under article 4 of ICCPR, and that Israeli policies related to the state of emergency appear to have unofficially derogated from additional provisions of ICCPR (*ibid.*).

¹⁶⁶ International Covenant on Civil and Political Rights, General Assembly resolution 2200A (XXI), 16 December 1966, entered into force 23 March 1976. Article 4.2 provides that "No derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made... These seven nonderogable rights are: right to life, freedom from torture or to cruel, inhuman or degrading treatment or punishment, freedom from slavery and servitude, imprisoned merely on the ground of inability to fulfil a contractual obligation, freedom from prosecution in the absence of applicable law, right to recognition everywhere as a person before the law, and freedom of thought, conscience and religion.

¹⁶⁷ See Committee on Economic, Social and Cultural Rights (CESCR), general comment No. 14 (2000), paras. 28-29.

¹⁶⁸ For a discussion of extraterritorial applicability of human rights law and corresponding State obligations, see Ibrahim Salama and Françoise Hampton, "Working paper on the relationship between human rights law and international humanitarian law," UN Sub-Commission on the Promotion and Protection of Human Rights, E/CN.4/Sub.2/2005/14, 21 June 2005, paras. 78–92. See also the examination of case law in the High Court of Justice, Queen's Bench Division, Divisional Court, *R. al-Skeini and others v. Secretary of State for Defence*, 14 December 2004.

¹⁶⁹ Examples included International Court of Justice, *Legality of the Threat or Use of Nuclear Weapons*, advisory opinion of 8 July 1996, *I.C.J. Reports 1996 (I)*, p. 226, at p. 240, para. 25; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, 9 July 2004, *I.C.J. Reports 2004*, para. 106; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, *I.C.J. Reports 2005*, para. 219. European Court of Human Rights, *Loizidou v. Turkey* (40/1993/435/514), 18 December 1996; and *al-Skeini op. cit.*, and, in the case of Israel's human rights obligations in the post-1967 occupied territories, see the Concluding Observations of the Human Rights Committee, monitoring the Covenant on Civil and Political Rights, CCPR/C/79/Add.93, CCPR/C/ISR/2001/2; the Committee on Economic, Social and Cultural Rights, E/C.12/1/Add.27 (1998) and E/C.12/1/Add.90 (2003); the Committee against Torture CAT/C/XXVII/Concl.5 (2001);

- the Committee on the Elimination of Racial Discrimination (CERD) CERD/C/304/Add.45 (1998) A/52/18, para. 19(3), and CERD Prevention of Racial Discrimination, including Early Warning and Urgent procedures A/49/18 (1994). The Human Rights Committee interprets States' human rights obligations to extend to protecting "anyone within the power or effective control of that State Party, even if not situated within the territory of the State Party." See General Comment 31, "Nature of the General Legal Obligation on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13 (2004), para. 10.
- ¹⁷⁰ For authoritative discussion, see ICJ, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 8 July 1996, *ICJ Reports 1996*, para. 25.
- ¹⁷¹ *Supra*, note 75.
- ¹⁷² European Court of Human Rights, *Bankovic and others v. Belgium and 16 Other Contracting States*, Case No. 52207/99, 12 December 2001, at: <http://www.echr.coe.int/eng/Press/2001/Dec/Bankovicadmissibilitydecisionepress.htm>.
- ¹⁷³ David Kretzmer, "The law of armed conflict: Problems and prospects," Chatham House, 18–19 April 2005, at: <http://www.riia.org/pdf/research/il/ILParmedconflict.pdf>; also Noam Lubell, "Challenges in applying human rights law to armed conflict," *International Review of the Red Cross* Vol. 87, No. 860 (December 2005), at 741.
- ¹⁷⁴ Berger, Grimes and Jensen, eds., *The US Operational Law Handbook 2004*, Chapter 3, Section III.
- ¹⁷⁵ "Mission to Lebanon and Israel," *op. cit.*, paras. 14–15. More generally, see note 21 above.
- ¹⁷⁶ Commission on Human Rights resolution 1993/77, "Forced evictions." See also Sub-Commission on the Promotion and Protection of Human Rights resolution 1998/9, "Forced evictions," "Reaffirming that every woman, man and child has the right to a secure place to live in peace and dignity, which includes the right not to be evicted arbitrarily or on a discriminatory basis from one's home, land or community...1. Reaffirms that the practice of forced eviction constitutes a gross violation of a broad range of human rights, in particular the right to adequate housing, the right to remain, the right to freedom of movement, the right to privacy, the right to property, the right to an adequate standard of living, the right to security of the home, the right to security of the person, the right to security of tenure and the right to equality of treatment." The Sub-Commission on the Promotion and Protection of Human Rights resolution 1997/6, "Forced Eviction," also "Reaffirms that forced evictions may often constitute gross violations of a broad range of human rights, in particular the right to adequate housing, the right to remain, the right to freedom of movement, the right to privacy, the right to property, the right to an adequate standard of living, the right to security of the home, the right to security of the person, the right to security of tenure and the right to equality of treatment..."
- ¹⁷⁷ "Forced evictions," E/CN.4/Sub.2/2003/17, adopted by consensus, 13 August 2003.
- ¹⁷⁸ E/CN.4/1998/53/Add.2. States recognize the Guiding Principles as "an important international framework for the protection of internally displaced persons" (General Assembly resolution A/60/1, para. 132).
- ¹⁷⁹ "Basic principles and guidelines on development-based evictions and displacement" E/CN.4/2006/41, at: <http://www.ohchr.org/english/issues/housing/annual.htm>.
- ¹⁸⁰ Arab Declaration on Sustainable Development for Human Settlements (Rabat Declaration) (1995) recognizes "Adequate housing is a fundamental right and requirement of the human being, who must be enabled to secure it in both urban and rural areas within a healthy and sound environment equipped with all services and utilities." General Principles and Goals, No. 8. Also the United Nations Framework Convention on Climate Change [Kyoto Protocol] (1992): *Recalling also* that States have, in accordance with the Charter of the United Nations and the principles of international law,...the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction...; and "Human Rights and the Environment," AG/RES. 1926 (XXXIII–O/03) (10 June 2003).
- ¹⁸¹ As set forth in CESCR General Comment No. 4, "right to housing" (1991), para. 8.
- ¹⁸² Therefore, humanitarian norms and violations relating to attacks on civilians (unrelated to attacks on the home or other shelter); the use of human shields; the mistreatment of prisoners of war; attacks on humanitarian services, equipment, institutions and personnel fall beyond the present scope.
- ¹⁸³ *Ibid.*, pp. 3–8 (Rule 1), 25–36 (Rules 7–10).
- ¹⁸⁴ *Ibid.*, pp. 25–32 (Rules 7–8).
- ¹⁸⁵ *Ibid.*, pp. 19–24 (Rule 6).
- ¹⁸⁶ *Ibid.*, pp. 32–34 (Rule 9).
- ¹⁸⁷ *Ibid.*, p. 37 (Rule 11).
- ¹⁸⁸ *Ibid.*, pp. 40–43 (Rule 12).
- ¹⁸⁹ *Ibid.*, pp. 43–45 (Rule 13).
- ¹⁹⁰ *Ibid.*, p. 48 (Rule 14).
- ¹⁹¹ *Ibid.*, p. 51 (Rule 15).
- ¹⁹² *Ibid.*, pp. 51–67 (Rules 15–21).
- ¹⁹³ ICRC Study, see note 21 above, pp. 62–65 (Rule 20). The duty to warn as part of the duty to protect life also may be derived from ICCPR article 6.
- ¹⁹⁴ *Ibid.*, pp. 68–76 (Rules 22–24).
- ¹⁹⁵ *Ibid.*, pp. 337–40 (Rule 97).
- ¹⁹⁶ *Ibid.*, p. 340 (Rule 97).

- ¹⁹⁷ Rome Statute, op. cit., Article 7 “Crimes against Humanity,” which include: (a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation or forcible transfer of population; (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) Torture; (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; (i) Enforced disappearance of persons; (j) The crime of apartheid; (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.
- ¹⁹⁸ As defined in the Rome Statute, Article 8.
- ¹⁹⁹ Ibid., pp. 568–603, 607–11 (Rules 156 and 158); see also E/CN.4/2006/53, paras. 33–43.
- ²⁰⁰ See also the recommendation contained in para. 107 below.
- ²⁰¹ “ICRC Study”. See, for example, HRW, *Fatal Strikes: Israel’s Indiscriminate Attacks against Civilians in Lebanon* (August 2006); and Amnesty International, *Deliberate destruction or “collateral damage”? Israeli attacks on civilian infrastructure* (August 2006).
- ²⁰² See Christopher Greenwood, “Customary law status of the 1977 Geneva Protocols” in Tanja Delissen, ed., *Humanitarian Law of Armed Conflict: Challenges ahead* [Festschrift for Frits Kalshoven] (Dordrecht: Nijhoff, 1991), p. 113.
- ²⁰³ The Hague Regulations, particularly Convention IV respecting the Law and Customs of War on Land, enshrines the prohibition on an occupying Power amending the law of the country (Article 43). Violating this principle has enabled Israel to expropriate Palestinian land, natural resources and private properties at its discretion.
- ²⁰⁴ Israeli officials use to justify the demolition of houses and destruction of agricultural land. Israeli officials also argue that protecting security forces and settlers from Palestinian gunfire, and combating the digging of tunnels intended for smuggling weapons, are pressing military necessities that justify the demolition of property pursuant to article 23(g). See B’Tselem, “Demolition for Allegedly Military Purposes,” at: http://www.btselem.org/english/Razing/Humanitarian_Law.asp.
- ²⁰⁵ Adam Roberts and Richard Guelff, eds., *Documents on the Laws of War* (Oxford, Clarendon Press, 1982), pp. 55–57.
- ²⁰⁶ With reference to Article 49 of the Civilians Convention, Jean Pictet, ed., *Commentary to the IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva: International Committee of the Red Cross, 1958), p. 279.
- ²⁰⁷ Pictet, *Commentary*, op. cit., pp. 278–79.
- ²⁰⁸ Ibid., pp. 280–81.
- ²⁰⁹ Ibid., p. 283.
- ²¹⁰ Scott Leckie, *When Push Comes to Shove: Forced Evictions and International Law* (The Hague: Ministry of Housing, Physical Planning and Environment, 1992), p. 46.
- ²¹¹ Guiding Principles on Internal Displacement, see note 20 above, principle 6, restating ICCPR article 12, and customary international humanitarian law (see ICRC Study, note 21 above, pp. 74–76, 457–68 (Rules 24 and 129–31)).
- ²¹² Theodor Meron, *Human Rights and Humanitarian Norms as Customary Law* (Oxford: Clarendon, 1991), p. 45.
- ²¹³ Articles 146–47 of the Civilians Convention (1949); see also Pictet, *Commentary*, op. cit., pp. 582–602.
- ²¹⁴ Article 1, paragraph 4 of Additional Protocol I (1977).
- ²¹⁵ Y. Sandoz, C. Swinarski and B. Zimmerman, eds., *ICRC Commentary to the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Dordrecht/Boston/London: Martinus Nijhoff, 1987), p. 1000.
- ²¹⁶ See Georges Abi-Saab “Non-international armed conflicts” in *International Dimensions of Humanitarian Law* (Dordrecht/ Boston/ London, Henry Dunant Institute/UNESCO/ Martinus Nijhoff Publishers, 1988), pp. 217–41.
- ²¹⁷ Sandoz, and others, *ICRC Commentary*, op. cit.
- ²¹⁸ Ibid.
- ²¹⁹ Ibid., p.1340; quoted in Meron, op. cit., p. 73.
- ²²⁰ Greenwood, op. cit., p. 113.
- ²²¹ Chapter II: Objectives Barred from Attack, “Immunity of the civilian population,” Article 6.
- ²²² Chapter II: Precautions in Attacks on Military Objectives, “Precautions to be taken in carrying out the attack,” Article 9.
- ²²³ British and Foreign State Papers, vol. 144, p. 1072.
- ²²⁴ Louise W. Holborn, ed., *War and Peace Aims of the United Nations: 1 September 1939–31 December 1942* (Boston, World Peace Foundation, 1943), p. 462.
- ²²⁵ Article 6 (b) of the Charter of the International Military Tribunal, in *International Military Tribunal, Trial of the Major War Criminals before the International Military Tribunal (IMT), Nuremberg, 1945–1946*, 42 vols. (London, H.M. Stationery Office, 1947–1949) vol. I, p. 11.
- ²²⁶ Ibid.
- ²²⁷ See General Assembly resolution 95 (1), adopted on 11 December 1946.
- ²²⁸ IMT, vol. I, p. 63.
- ²²⁹ For instance, Justice F. de Menthon stated that persons recalcitrant to Nazification became victims of large-scale expulsions (IMT, vol. 5, p. 410); E. Faure declared that deportations and Germanization in France were “a criminal

- undertaking against humanity" (IMT, vol. 6, p. 427); L.N. Smirnov dealt with the clearance of Polish inhabitants from their villages and their replacement by Baltic Germans (IMT, vol. 8, p. 256; also vol. 8, p. 253 and vol. 19, p. 469).
- ²³⁰ Alfred M. de Zayas, "International law and mass population transfers," *Harvard International Law Journal*, vol. 16, No. 2 (1974), p. 214.
- ²³¹ Indictment: International Military Tribunal, Part III, "Eastern Countries," *Trial of the Major War Criminals before the International Military Tribunal*, Vol.1, (Nuremberg, 1947), p. 27.
- ²³² Alfred Jodl, 1935 to 1938, was chief of the National Defense Section in the German High Command and, later, Chief of the Operations Staff of the High Command of the Armed Forces. The International Military Tribunal found him guilty on all four counts of the indictment. Count Three: War Crimes addressed the German Government and the German High Command carrying out, "as a systematic policy, a continuous course of plunder and destruction including: On the territory of the Soviet Union the Nazi conspirators destroyed or severely damaged 1,710 cities and more than 70,000 villages and hamlets, more than 6,000,000 buildings and made homeless about 25,000,000 persons." On 28 October 1944, Jodl ordered the evacuation of all persons in northern Norway and the burning of their homes so as to deter them from aiding the Russians. Jodl testified that he opposed the operation, but Hitler had ordered it. He also testified that the order was not fully executed. However, the Norwegian government provided evidence that such an evacuation did take place, and that 30,000 houses were damaged. See Opinion and Judgment of the Nürnberg International Military Tribunal" *The Avalon Project*, at: <http://www.derechos.org/nizkor/nuremberg/judgment/cap9.html#Jodl>.
- ²³³ Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, 12 August 1949, Article 53. "Interpretation by the ICRC of Article 53 of the Fourth Geneva Convention of 12 August 1949, with particular reference to the expression 'military operations,'" Letter to al-Haq (Ramallah, Palestine) signed by Jacques Moreillon, Director of Department of Principles and Law and Jean Pictet, ICRC, November 25, 1981 ("... with a view to fighting") and "Occupation and international humanitarian law: questions and answers," ICRC press release, August 4, 2004 ("...when absolutely required by military necessity during the conduct of hostilities"). Cited in HRW, *Razing Gaza* (New York: HRW, 2004), p. 12.
- ²³⁴ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1125 U.N.T.S. 3, Article 52: "*General protection of civilian objects*" reads: "1. Civilian objects shall not be the object of attack or of reprisals. Civilian objects are all objects [that] are not military objectives as defined in paragraph 2. 2. Attacks shall be limited strictly to military objectives. Insofar as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military of advantage. 3. In case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used." The United States has not ratified the Geneva Civilian Convention Protocols. However, the U.S. government stated in 1987 that it finds a number of Protocol I's provisions to be customary. Among them are: limitations on the means and methods of warfare, especially those methods which cause superfluous injury or unnecessary suffering (art. 35); protection of the civilian population and individual citizens, as such, from being the object of acts or threats of violence, and from attacks that would clearly result in civilian casualties disproportionate to the expected military advantage (art. 51); protection of civilians from use as human shields (arts. 51 and 52); prohibition of the starvation of civilians as a method of warfare and allowing the delivery of impartial humanitarian aid necessary for the survival of the civilian population (arts. 54 and 70); taking into account military and humanitarian considerations in conducting military operations in order to minimize incidental death, injury, and damage to civilians and civilian objects, and providing advance warning to civilians unless circumstances do not permit (arts. 57–60). Michael J. Matheson, "Remarks on the United States Position on the Relation of Customary International Law to the 1977 Protocols Additional to the 1949 Geneva Conventions," reprinted in "The Sixth Annual American Red-Cross Washington College of Law Conference on International Humanitarian Law: A Workshop on Customary International Law and the 1977 Protocols Additional to the 1949 Geneva Conventions," *American University Journal of International Law and Policy*, vol. 2, no. 2 (fall 1987), pp. 419–27.
- ²³⁵ Article 147 reads: "Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or willfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly."
- ²³⁶ For a detailed discussion of the Convention, see Robert H. Miller, "The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity," *American Journal of International Law*, vol. 65, No. 3 (July 1971), pp. 476–501.
- ²³⁷ Many participants in the negotiation of the Convention strongly approved inclusion of this particular inhuman act "as covering some of the most evil crimes against humanity [that] were being committed at present." *Ibid.*, p. 490.

- ²³⁸ “Rome Statute of the International Criminal Court,” UN Doc. 2187 U.N.T.S. 90, *entered into force* 1 July 2002.
- ²³⁹ United Nations General Assembly resolution 3314 (XXIX), “Definition of Aggression” defines the crime as follows: “Article 1: Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this Definition....”
- Article 3: Any of the following acts, regardless of a declaration of war, shall, subject to and in accordance with the provisions of article 2, qualify as an act of aggression:
- (a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,
 - (b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;
 - (c) The blockade of the ports or coasts of a State by the armed forces of another State;
 - (d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;
 - (e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;
 - (f) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;
 - (g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.”
- ²⁴⁰ Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion, I.C.J. Reports 1962, p. 163.
- ²⁴¹ Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, I.C.J. Reports 1986, p. 103, para. 195
- ²⁴² “Separate Opinion of Judge Elaraby,” *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, at: http://www.icj-cij.org/icjwww/idocket/ico/ico_judgments/ico_judgment_opinions_elaraby_20051219.pdf.
- ²⁴³ Genocide is defined in the International Convention on the Prevention and Punishment of the Crime of Genocide (1948), and its definition is incorporated in the Rome Statute as follows: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.
- ²⁴⁴ Rome Statute, op. cit., Article 7 “Crimes against Humanity,” which include: (a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation or forcible transfer of population; (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) Torture; (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; (i) Enforced disappearance of persons; (j) The crime of apartheid; (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.
- ²⁴⁵ Rome Statute, op. cit., Article 8 “War Crimes.”
- ²⁴⁶ Rome Statute, op. cit., Article 11, “Jurisdiction *ratione temporis*,” para. 1. The State must make its declaration under article 12, paragraph 3. The paragraph states: “If the acceptance of a State which is not a Party to this Statute is required under paragraph 2, that State may, by declaration lodged with the Registrar, accept the exercise of jurisdiction by the Court with respect to the crime in question. The accepting State shall cooperate with the Court without any delay or exception in accordance with Part 9.”
- ²⁴⁷ General Assembly resolution 1514 (XV).
- ²⁴⁸ *Ibid.*, Article 4.
- ²⁴⁹ “Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,” A/2708, 14 December 1970.
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- ²⁵¹ A/3070, 30 November 1973.
- ²⁵² A/3103, 12 December 1973.
- ²⁵³ *Ibid.*, Article 6.
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- ²⁵⁵ *Ibid.*
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- ²⁶² Chris McGreal, "Death of a Town," *The Guardian* (28 October 2003), at: <http://www.guardian.co.uk/world/2003/oct/27/israel1>.
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- ²⁶⁸ Amos Harel, "Shooting and Crying," *Ha'aretz* (20 March 2009), at: <http://www.haaretz.com/hasen/spages/1072475.html>.
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