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مركز المعلومات الإسرائيلي لحقوق الإنسان في الأراضي المحتلة-بتسيلم

**B'Tselem** – The Israeli Information Center for Human Rights in the Occupied Territories

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## Black Flag:

The legal and moral implications of the policy of attacking residential buildings in the Gaza Strip, summer 2014

B'Tselem report, January 2015

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*I lost my whole family, and my home. I have nothing left. No photos, not the things my family and I used.  
I lost everything. I have nothing left. I lost everything in seconds. I lost everything.*  
**Muhammad Nader 'Ata al-Agha, 19, student, resident of Ma'an/Khan Yunis.<sup>1</sup>**

*No other country and no other army in history have gone to greater lengths to avoid casualties among  
the civilian population of their enemies*  
**Benjamin Netanyahu, Prime Minister of Israel<sup>2</sup>**

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<sup>1</sup> He gave his testimony to Khaled al-'Azayzeh on 17 September 2014.

<sup>2</sup> Prime Minister Benjamin Netanyahu's speech at the UN General Assembly, 29 September 2014.

Early on the afternoon of 8 July 2014, the first day of the fighting in the Gaza Strip last summer, a person speaking on behalf of the Israeli military phoned one of the apartments in the home of the Kaware' family, in Khan Yunis. He told residents that the military was planning to destroy the building and that they must immediately evacuate it. More than an hour later, a warning missile was launched at the roof. The families left the building, but dozens of local residents continued to gather in the area. Some of them had even gone up to the roof, or were in the staircase, on their way there. A missile was then fired at the three-story, seven-apartment building –members of the extended Kaware' family lived in each of the apartments – and the building collapsed. Nine people, including five children aged 7 to 14, were killed.

These are the findings of B'Tselem's investigation of this strike. In its response, the military did not offer an alternative scenario of how events unfolded but explained that the building had been used as a "command center for a company commander in the Hamas Khan Yunis brigade". The military also said that residents of the building had been warned, both by a phone call and by a missile shot at the roof. However, despite having left it, residents returned to the building when it was too late to redirect the course of the missile that had been fired at it.<sup>3</sup>

This explanation must be examined in the context of the open-fire policy pursued by the military during the hostilities over the summer: the attack on the Kaware' home was just the first of dozens of instances in which residential buildings were attacked from the air or ground, causing them to collapse on entire families. With few exceptions – the most prominent being the attack on the Kaware' home – Israeli officials did not provide explanations for why a certain home was attacked and why it resulted in so many fatalities. Consequently, B'Tselem has no way of knowing the basis for the attack: that the home was owned by an operative of Hamas or another group, that such an operative was on site at the time of the strike, that rockets were launched at Israel from a nearby location, or any other reason.

Be the reason as it may, these strikes would become one of the appalling hallmarks of the fighting, with more than a quarter of Palestinians fatalities killed in such a strike. B'Tselem has no knowledge of who is responsible for formulating this open-fire policy under which such strikes on homes were permitted, nor who ordered it. Regardless, government officials and top military officials alike backed it and ordered the military to continue implementing it.

The fighting this summer did not take place in a foreign country but in an area to whose residents Israel still bears responsibility. Even after implementation of the Disengagement Plan from Gaza was concluded in September 2005, Israel continues to control the crossings between the Gaza Strip and Israel – which also enable passage to the West Bank – as well as Gaza's airspace and maritime space. By virtue of this control, Israel continues to control significant aspects of the lives of the over 1.7 million Palestinians who live in the Gaza Strip. In September 2007, after Hamas's takeover of Gaza and in

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<sup>3</sup> Gili Cohen, "Israeli army says the killing of 8 Gazan family members was in error", *Haaretz*, 10 July 2014.

response to ongoing rocket fire at Israel, Israel made use of this control to impose a blockade – still in effect – on Gaza.

There is no question that Hamas and other Palestinian organizations have breached provisions of international humanitarian law (hereafter: IHL). Its operatives fired at Israeli civilians from within civilian populated areas, concealed weapons and munitions inside homes and, as a rule, did not keep themselves distinct from civilian population. Yet even in this situation, Israel is still bound to uphold IHL (as it insistently claims it had done) because violations of IHL by one party do not grant the other party permission to breach them as well.

This report focuses on this policy the military implemented of strikes on homes, which then proceeded to collapse on their occupants. The report does not address other of aspects of the fighting, albeit they too raise grim questions. The purpose of this report is to endeavor to explain if and how policymakers' claims about Israel's commitment to IHL provisions comports with the policy of attacking residential buildings. The analysis of the legal aspects of this policy is preceded by accounts of some of the Palestinian families who lost their loved ones.

## Figures

The fighting in Gaza began on 8 July 2014. Nearly ten days later, on 17 July 2014, the military brought ground forces into the Gaza Strip, where they remained for about three weeks. On 26 August 2014, about fifty days after the commencement of what came to be known Operation Protective Edge, the fighting came to an end in a ceasefire agreement between Israel and Hamas.

According to an IDF Spokesperson's statement, "in the course of the operation more than 5,226 terror sites were attacked", including launchers, buildings used as "military posts", "command and control centers, weapon arsenals, and weapons manufacturing infrastructure" as well as government institutions that "supported military fighting".<sup>4</sup>

More than 2,200 Palestinians were killed in these attacks and thousands more were injured. The Palestinian dead included hundreds of children – some of their names appear below. The fighting wrought massive devastation in the Gaza Strip, where the state of infrastructure and housing had already been dire. According to assessments made by UN organizations operating in the Gaza Strip, about 18,000 homes were destroyed or badly damaged and more than 100,000 Palestinians were left homeless.<sup>5</sup> More than four months after the fighting ended, reconstruction work is proceeding at a very slow pace, with no end in sight.

Over the course of the fighting, Palestinians fired more than 4,000 rockets and mortar shells from the Gaza Strip, about 94% of them in a radius of up to 50 km.<sup>6</sup> These attacks targeted mostly civilian communities inside Israel, from small rural communities through to towns and cities, killing five civilians including a four-year-old boy, Daniel Tregerman. He was killed when a mortar shell hit his home in Kibbutz Nahal Oz in southern Israel. One of the civilians killed was a foreign national. Sixty-seven soldiers were also killed in the course of the fighting.<sup>7</sup>

B'Tselem collected testimonies and data regarding 70 incidents in each of which at least three people were killed inside their homes, as a result of an attack by the military. A total of 606 Palestinians were killed in these incidents. Nearly half (45%) were women. In 53 incidents there were between five and nine fatalities: 33 in which five or more people were killed; in 11 incidents - ten to 14 people killed; and in 9 – fifteen or more people were killed.

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<sup>4</sup> IDF Spokesperson release, 29 August 2014, "Target by target: the main events of Operation Protective Edge" (Hebrew).

<sup>5</sup> Overview of the facts and figures published by OCHA - United Nations Office for the Coordination of Humanitarian Affairs. See: <http://www.ochaopt.org/content.aspx?id=1010361>.

<sup>6</sup> See monthly reports for July and August on the ISA website, [www.shabak.gov.il](http://www.shabak.gov.il) (Hebrew).

<sup>7</sup> For figures on civilians, see [www.pmo.gov.il/TerrorInjured/Pages/default.asp](http://www.pmo.gov.il/TerrorInjured/Pages/default.asp) (Hebrew).

For figures on soldiers, see IDF Spokesperson website: <http://www.idf.il/1133-20978-he/Dover.aspx> (Hebrew).

B'Tselem is still investigating who among the people killed had taken part in the hostilities, but can already estimate with a high degree of probability that more than 70% of them did not take part in the hostilities, according to the following breakdown:

- 93 infants and children under the age of 5, including 13 less than a year old;
- 129 children aged 5 to14;
- 42 teens aged 14 to18;
- 135 women aged 18 to 60;
- 37 men and women over the age of 60.

## Illustrative incidents

Below are the details of thirteen of the 70 incidents which B'Tselem. They reflect different aspects of the policy of attacking residential buildings. The incidents are presented in chronological order. In most cases, officials did not explain why a building was attacked, and so B'Tselem cannot be certain why the home was targeted and what information the authorities had prior to the strike.

In some of the cases, everyone in the house was killed, meaning that there is no way of knowing whether they had been issued a warning. In one case, members of the household said they had heard a warning missile, but had not understood that it was aimed at their house. In other cases, survivors said they had been given no warning whatsoever. Here too, in the absence of an official statement, B'Tselem is unable to determine if a warning had been issued but not understood, or if no warning had been issued at all, be it deliberately or in error.

In the 13 incidents detailed below, 179 Palestinians were killed. Over 75% of them belonged to three groups – minors, , women, and men over the age of 60, according to the following breakdown:

- 31 infants and children under age 5;
- 39 children aged 5 to 14;
- 13 teenagers aged 14 to 18;
- 47 women aged 18 to 60;
- 9 men and women over 60.

### 1. Bombing of al-Haj home, Khan Yunis R.C.; 8 members of the family killed, 10 July 2014

#### The people killed in the incident:

The parents: Mahmoud Lutfi Mahmoud al-Haj, 51  
Basemah 'Abd al-Qader Muhammad al-Haj, 51  
Their children: Najlaa Mahmoud Lutfi al-Haj, 29  
Asmaa Mahmoud Lutfi al-Haj, 22  
'Omar Mahmoud Lutfi al-Haj, 20  
Tareq Mahmoud Lutfi al-Haj, 18  
Sa'ed Mahmoud Lutfi al-Haj, 16  
Fatmeh Mahmoud Lutfi al-Haj, 14

On the night of 10 July 2014, shortly after 1:00 AM, an aircraft fired a missile at the al-Haj home in Khan Yunis R.C. The building collapsed and eight members of the family were killed – the parents, Mahmoud and Basemah al-Haj, and six of their children. Only two members of the family, in their twenties, survived, as they were not in the house during the attack: Yasser al-Haj, 25, and Fidaa, 27, who lives in her

husband's home. In the explosion, some neighbors were also injured and nearby homes damaged, rendering some no longer habitable.

Muhammad Shahin, 44, a neighbor of the al-Haj family, described what happened next:<sup>8</sup>

A little after 1:00 A.M., my family was already asleep. I was lying in bed watching the soccer World Cup semi-final between Argentina and Holland. Things were quiet outside. I didn't hear any airplanes in the sky. I was enjoying the game and waiting for *suhour* – the last meal before each fast day of Ramadan.

Suddenly I heard a very loud blast. I felt my bed move and I almost flew out of it. It felt like the explosion had been in our house, or right next door. The windows flew out of their frames. The window by my head was simply torn out of place along with its frame, and fell in the middle of the room. I thank God it didn't hit my daughter, who was sleeping in the room. Thick smoke filled the house. The power didn't get cut off so there was light, but I could hardly see through the smoke. There was a feeling of dread throughout the house. I heard screaming from my neighbors' homes.

I made sure all my kids were okay and gathered them up to leave the house. I didn't yet understand which house had been bombed. We went outside and so did my brothers and other relatives who live nearby. We tried to figure out which house had been bombed and realized it wasn't any of our family's homes. It was the al-Haj family home, which is very close to ours.

We reached the house that had been bombed. I know it well. There was hardly anything left. It was totally destroyed. Bits of bodies were scattered on the road. The house next door to the al-Hajs belonged to the Shakshak family. It was also destroyed, but it wasn't a direct hit and they got out alive.

Ahmad al-'Atamneh, 24, another neighbor of the Al-Haj family, also described the incident:<sup>9</sup>

On Thursday, after 1:00 A.M., I was out on the first-floor porch of our house. The porch overlooks the house of our neighbors, the Al-Hajs. My wife and my baby boy Muhammad, who is a year old, were asleep in the bedroom, which is adjacent to the porch. I heard drones in the area and suddenly saw a red light everywhere. Then I heard a blast that forced me to the ground, and I lost consciousness for a little while. When I came to, I saw people all around me, shouting and calling for ambulances. My back was extremely painful. I heard some

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<sup>8</sup> He gave his testimony to Iyad Hadad on 11 July 2014, over the telephone.

<sup>9</sup> He gave his testimony to Muhammad Sa'id on 30 August 2014.



neighbors saying that one of the nearby houses had been bombed and that people had been wounded and killed. I asked for my wife and son, and a neighbor told me they were all right.

A few minutes later, several ambulances reached the scene and took me to Naser Hospital, south of the town of Khan Yunis. When I asked about my family, I was told that also my father, Muhammad Ahmad 'Abd al-Qader al-'Atmaneh, 51, had been wounded while he was sleeping by shards in his hands and feet, and that he was also in hospital. At around 8:00A.M. we were discharged.

When I got home I was surprised by the devastation of the whole area. The home of our neighbor Mahmoud had been completely demolished, and civil defense personnel and medics were searching the wreckage for a member of the family. A narrow street, about two meters wide, is all that separates my house from the one bombed. Our house was badly damaged and part of it was destroyed. Other neighbors' houses were also damaged because the houses are close together. Mere meters separate one house from another. It's a miracle we survived.

## **2. Bombing of Abu Jame' home, Bani Suheila; 25 people killed – 24 members of the family and a Hamas operative, 20 July, 2014**

### The people killed in the incident:

The grandmother:	Fatimah Mahmoud Ahmad Abu Jame', 64
Her grandson:	Husam Husam Muhammad Abu Qeins, 6
Her daughter-in-law:	Shahinaz Walid Muhammad Abu Jame', 28
Her children:	Fatimah Taysir Ahmad Abu Jame', 7 Ayub Taysir Ahmad Abu Jame', 6 Rayan Taysir Ahmad Abu Jame', 4 Rinad Taysir Ahmad Abu Jame', 1 Nujud Taysir Ahmad Abu Jame', 5 months old
Her daughter-in-law:	Yasmin Ahmad Salameh Abu Jame', 25
Her children:	Batul Bassam Ahmad Abu Jame', 3 Soheila Bassam Ahmad Abu Jame', 2 Bisan Bassam Ahmad Abu Jame', 1
Her daughter-in-law:	Sabah Tawfiq Mahmoud Abu Jame', 39
Her children:	Razan Tawfiq Ahmad Abu Jame', 14 Jawdat Tawfiq Ahmad Abu Jame', 13 Aya Tawfiq Ahmad Abu Jame', 10 Haifaa Tawfiq Ahmad Abu Jame', 9 Ahmad Tawfiq Ahmad Abu Jame', 7 Tawfiq Tawfiq Ahmad Abu Jame', 5
Her son:	Yasser Ahmad Muhammad Abu Jame', 27

His wife:	Fatmeh Riad 'Abd a-Rahman Abu Jame', 25
Their children:	Sajed Yasser Ahmad Abu Jame', 5 Siraj Yasser Ahmad Abu Jame', 4 Siraa Yasser Ahmad Abu Jame', 2

Ahmad Suliman Mahmoud Sahmoud, 34

At around 7:30 P.M on 20 July 2014, the Israeli air force bombed the Abu Jame' apartment building in Bani Suheila near Khan Yunis. The three-story building had six apartments. One apartment was occupied by Fatmeh Abu Jame', 64, and one of her grandchildren. Fatmeh's five sons lived in the other five apartments with their wives and children. A total of 37 people lived in the house.

Twenty-four members of the family perished in the bombing: The mother Fatmeh, her son Yasser, four of her daughters-in-law, and 18 of her grandchildren. Ahmad Sahmoud, a Hamas operative who is not a member of the family, was also killed.

Only 13 of the building's residents survived. Four of Fatmeh Abu Jame's sons, Taysir, Bassam, Tawfiq and his 4-year-old son Nur a-Din and 'Abdallah, with his wife Meyasar and their seven children, who were not harmed as they had gone to visit Meyasar's parents for the meal that breaks the fast each day of Ramadan.

Tawfiq Abu Jame', 36, who lost his wife and six of his seven children in the bombing, told B'Tselem's field researcher that there had been heavy artillery fighting in their area, but that they had stayed in their home because they had nowhere else to go. He spoke of what happened on the day of the bombing:<sup>10</sup>

Sunday 20 July 2014, the 22<sup>nd</sup> day of the month of Ramadan, was a tough day. Areas around us were being constantly bombed, and the streets were empty. There were many observation planes in the sky. We stayed home. Only my brother 'Abdallah, and his wife and children went to her parents to have *iftar* [break fast], and my brother Taysir went to pray at 'Omar Ibn al-Khatib Mosque, about 100 meters away from our house.

At about 7:30 P.M., I sat down to eat with my wife and children. I'd hardly managed to eat a date and drink some water before the house suddenly collapsed on us and I lost consciousness. I didn't hear the actual explosion.

I woke up in the hospital about two hours later. I was slightly injured. I asked relatives who were in the hospital what had happened and they told me the Israeli

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<sup>10</sup> He gave his testimony to Khaled al-'Azayzeh on 16 September 2014.

military had bombed our house from airplanes. When I asked who had been killed, they only told me about my mother and one of my nephews at first. I had a feeling they were keeping the truth from me and that many more had been killed. I kept asking, doggedly, and I questioned every person who walked into my room.

At around 4:00 A.M. I found out that my wife, who was pregnant, nearly full term, and six of my children had been killed. My 4-year-old son, Nur a-Din, was rescued from the rubble with head injuries. I also found out that one of my brothers, and my brothers' wives and all their children had been killed.

We were bombed without any warning. We didn't receive a telephone call and a missile wasn't fired at our house, like sometimes happened in other houses.

I'd worked with my brothers on building this house, building our lives, since I was eleven, and suddenly we'd lost everything. The house and the family obliterated in a matter of seconds. I only have my son Nur a-Din left. All I have left of them is a few photos of my children I took on my cell phone at a wedding a week before Ramadan. I keep turning on my phone, looking at the pictures, and remembering my kids and the various stages in their lives.

### **3. Bombing of apartment in home of al-Qasas family, Gaza City; nine family members killed, 21 July 2014**

#### The people killed in the incident:

Sumayah Muhammad Nassar al-Qasas, 33

Her daughters: Israa Yasser Khader al-Qasas, 10  
Yasmin Yasser Khader al-Qasas, 7  
Arwa Yasser Khader al-Qasas, 5  
Samar Yasser Khader al-Qasas, 3

Her mother: Fayzeh Saber Ahmad Siyam, 67 (came for neighborhood of a-Zeitun)

Her sister-in-law: 'Aliaa Khader Yusef Siyam, 33 (came with her daughters from a-Zeitun)

Daughters of her sister-in-law Shadyah (had come with her daughters from a-Zeitun):

Lamyaa Iyad Sa'ed al-Qasas, 12  
Nasmah Iyad Sa'ed al-Qassa, 10

At around 4:30 P.M. on 21 July 2014, the military attacked the roof-story apartment of the al-Qasas family home in Gaza City. Nine members of the family were killed: three women and six children, all girls. Two of the women and two of the girls were in that house after the military ordered them to leave their own homes.

The strike, which according to testimonies collected by B'Tselem was not preceded by any sort of warning, was very precise: it destroyed some of the rooms in the roof-story apartment, leaving the rest of the three-story building unscathed.

At the time, the building was home to its 24 regular occupants, along with another 17 relatives who had come to shelter there. The parents lived on the first floor with their daughter Huda. The remaining floors were occupied by their married sons, Salameh, Salim and Yasser, and their families.

Over the course of the fighting, other relatives, who had left their homes in neighborhoods where the military had distributed flyers calling residents to evacuate, had come to stay with the family. The daughter Shadyah, who lives in the neighborhood of a-Zeitun, came with her seven children and was staying with her parents on the first floor. Her husband, Iyad, was staying at one of the UNRWA schools being used as shelters. Another daughter, Asmaa, who lives in the neighborhood of a-Shuja'ieyh, was staying with her husband and two children on the third floor, with her brother Salim's family.

The roof-story was the home of the son Ahmad, his pregnant wife Sumayah, and their nine children. Over the course of the fighting, some of Sumayah's relatives, residents of a-Zeitun, had come to stay with the family – her mother, her sister-in-law and her three children.

In the afternoon, some of the women and children of the family were in the roof-story apartment, preparing the *iftar* meal. At that time Salim al-Qasas, 28, was in his apartment on the third floor, with some other relatives. He described what happened:<sup>11</sup>

Suddenly, we heard an explosion from the direction of al-Dawud Tower, which is about 200 meters to the north of us, and also from the a-Zafer Tower, also about 200 meters away. My father, my brother Yasser and I went outside to see what had happened. Five minutes later, we heard another loud explosion. We looked at the towers and buildings near us, but we didn't see anything. Suddenly, some stones from our house fell on top of us, and it was only then that we realized our house had been hit. Yasser and I quickly went up to Yasser's apartment, and my brother Salameh joined us on the way. We saw fire in the apartment, and bodies lying inside it.

Nine members of the family, women and girls, were killed in the attack. The rest of the children who were in the house suffered burns, some severe, as a result of a fire that broke out when a gas tank in the apartment exploded. Salim recounted what happened next:

We started taking the injured out to the street. We evacuated them in cars belonging to people from the neighborhood and in ambulances that arrived in the area. Then

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<sup>11</sup> He gave his testimony to Khaled al-'Azayzeh on 16 October 2014.

we started collecting the body parts of those killed. It was very hard. When my brother Yasser saw the bodies of his family he lost consciousness. My sister Shadyah's husband also lost consciousness when he saw the bodies of his daughters Lamyaa and Nasmah.

We took Yasser and my sister's husband Iyad to a-Shifaa hospital. We buried the bodies on the very same day, because things were tough at the hospital and there wasn't enough space at the morgue.

The military attacked our house without warning. I don't know the reason for this attack.

#### **4. Bombing of an office building in a-Rimal neighborhood, Gaza City; 12 people killed – 11 members of the Dirbas and al-Kilani families, and an operative of the Islamic Jihad, 21 July 2014**

The people killed in the incident:

The siblings:                    'Ayidah Sha'ban Muhammad Dirbas, 47

   Surah Sha'ban Muhammad Dirbas, 41  
   Mahmoud Sha'ban Muhammad Dirbas, 37  
   Inas Sha'ban Muhammad Dirbas, 30  
   Taghrid Sha'ban Muhammad al-Kilani, 44, and  
   her husband, Ibrahim Dib Ahmad al-Kilani, 52

Their children: Rim Ibrahim Dib al-Kilani, 11  
   Sawsan Ibrahim Dib al-Kilani, 10  
   Yasin Ibrahim Dib al-Kilani, 9  
   Yasser Ibrahim Dib al-Kilani, 7  
   Elias Ibrahim Dib al-Kilani, 3

Sha'ban Suliman a-Dahduh, 34

On 23 July 2014, the Israel Security Agency (hereafter: ISA) reported hitting several top members of the Islamic Jihad organization, including Sha'ban Khaled Sha'ban a-Dahduh, who was described as a regiment commander in the organization's Gaza City Brigade.<sup>12</sup> A-Dahduh was killed in the early evening of 21 July 2014, when the military bombed the four top floors in the Majd a-Salam (Tower of Peace) eight-story office building, in Gaza City's a-Rimal neighborhood. In addition to a-Dahduh, eleven members of the Dirbas and al-Kilani families were killed in the attack, five of them children.

Adv. Abd al-Karim Siyam, 38, told a B'Tselem's researcher that he and his family had left their home in the a-Tufah neighborhood of Gaza because of the shelling, and took shelter in his office, on the second

<sup>12</sup> See <http://www.mako.co.il/news-military/security-tzuk-eitan/Article-2acd8a1f0446741004.htm> (Hebrew)

floor of the office building that was bombed. Siyam said that on 21 July 2014, after the meal marking the breaking of the Ramadan fast for the day, he was praying at the entrance to the building with his father and a cousin. He described what happened next:<sup>13</sup>

We prayed, and then we sat for a while, and suddenly we heard the crash of wreckage and windows shattering. I also heard children screaming, and only then, I realized that the tower was being bombed. I opened the door to the building and started calling for people to come out. Then I saw my wife, my brothers, my mother and the children coming down from the office to the lower part of the tower. They were in shock, scared, and they were crying and shouting with fear. The fourth and fifth floors of the building had collapsed.

People from the Civil Defense then came to evacuate the injured and take away the bodies. We went to the houses nearby. We made sure all the children and family members were okay, and then a cousin on my mother's side came and took us to their house in a-Naser neighborhood in Gaza City.

One of the offices on the fifth floor of the building was the refuge of members of the Dirbas and al-Kilani families. All told, they were 11 people, who had fled their homes in Beit Lahiya: five brothers and sisters from the al-Kilani family, as well as Ibrahim Dirbas, the husband of Taghrid al-Kilani (one of the sisters), and their five children aged 3 to 11. Before they moved to the office building, they had fled to their brother Ahmad's house in a-Tufah neighborhood, Gaza City, but they had to flee from their too, because of persistent shelling and shooting. They were all killed in the attack on the building.

#### **5. Bombing of vacant building in Jabalya R.C.; it collapsed on home of Abu 'Aytah home, killing five members of the family, 24 July 2014**

The people killed in the incident:

The parents: Ibrahim 'Abdallah Ibrahim Abu 'Aytah, 66  
Jamileh Salim 'Eid Abu 'Aytah, 55  
Their children: Muhammad Ibrahim 'Abdallah Abu 'Aytah, 32  
Ahmad Ibrahim 'Abdallah Abu 'Aytah, 31  
Ahmad's son: Adham Ahmad Ibrahim Abu 'Aytah, 4

At around 1:30 A.M. on 24 July 2014, the air force attacked a house in Jabaliya R.C. in the northern Gaza Strip. One of the sons of the man who owned the targeted building is a member of Hamas' military branch. This may have been the reason for the attack. Testimonies collected by B'Tselem indicate that the military fired a warning missile, but local residents could not tell which home it was fired at and who was meant to leave.

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<sup>13</sup> He gave his testimony to Muhammad Sabah on 19 August 2014.

The house, which was vacant, was completely destroyed and dozens of other nearby homes were damaged. One of them was the Abu 'Aytah home. Five members of the family were killed, including a four-year-old, and 12 were injured.

The Abu 'Aytah family lived in a three-story building. Ibrahim and Jamileh Abu 'Aytah lived on the first floor with four of their children. Their three married sons lived with their families on the ground and second floors. A total of 20 people lived in the house.

Mahmoud Abu 'Aytah, 30, who lived on the ground floor, told B'Tselem's researcher that the family had been living in that house for 15 years. He said the area where the house was located had been relatively quiet and that the family had managed to lead an almost normal life during the fighting, including shopping at the market. He said they had even invited a relative who lives near Gaza's eastern border, in an area that was exposed to artillery fire, to take refuge in their house. Mahmoud described what happened before the house was hit:<sup>14</sup>

We were all at my parents' place on the first floor. We were sitting and talking with them, and we were happy. At about 11:30 P.M., my wife, my sisters Alaa and Manal and I went down to my apartment on the ground floor. I watched the news and I was happy when they said there might be a cease-fire in the next few days.

At around 1:30 A.M., we heard a very loud, very close, explosion. My brother Ahmad, his wife and his children came down to my apartment because the ground floor is safer. Then my parents, my brother Isma'il and my brother Muhammad and his family came downstairs too. We sat on mattresses and on the couches, and the children were playing by our side. Then we heard the sound of one missile, which sounded like a warning missile shot from a drone. We wanted to go outside to see which house had been warned, but my father refused and wouldn't let us go. So we sat back down.

Less than two minutes later, I suddenly couldn't feel anything. I woke up the next day and saw I was at a-Shifaa Hospital. I was in pain. The doctors told me a house close to ours had been bombed and that I and the rest of my family were injured to various degrees. I saw my brother Isma'il, and he told me my wife was in the ICU.

I was released from the hospital a few hours later. I went back to my father-in-law's house in the Tel a-Za'tar area in Jabaliya R.C. It was only a few hours after that I was told that some of my family had been killed. I was in shock when I heard that. I had a nervous breakdown. The moments when I heard that members of my family had been killed were extremely difficult.

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<sup>14</sup> He gave his testimony to Muhammad Sabah on 9 November 2014.

The hit to the home, which was partially destroyed, killed Mahmoud Abu 'Aytah's parents, two of his married brothers, and one of their sons.

#### **6. Bombing of al-Far home, al-Maghazi R.C.; 9 family members killed, 28 July 2014**

The people killed in the incident:

The parents:	Salem Muhammad Badawi al-Far, 58 Zinat Hassan Ahmad al-Far, 58
Their daughters:	Amal Salem Muhammad al-Far, 35 Jihan Salem Muhammad al-Far, 28 Nivin Salem Muhammad al-Far, 18 Hanan Salem Muhammad al-Far, 15
Their daughter-in-law:	Riham Hussein Ahmad al-Far, 26
Her brother:	Ramzi Hussein Ahmad al-Far, 23
Her mother:	Fatmeh Hassan Ahmad al-Far, 55

At approximately 11:00 P.M. on 28 July 2014, the two-story house of the al-Far family in al-Maghazi Refugee Camp, central Gaza Strip, was bombed. Nine members of the family were killed.

The first floor was home to parents Salem and Zinat al-Far, six of their children, and two grandchildren. The second floor was home to their son Ahmad and his wife Riham. The couple had gotten married in February 2014. Riham's mother Fatmeh and her brother Ramzi were living with them, having come from Jordan to attend the wedding and been unable to return as Rafah Crossing had since been closed. In total, 14 persons were living in the house.

That night, the entire family, except the son Ahmad, were on the first floor, which was considered safer,. One of them, Mahmoud al-Far, 23, told B'Tselem's field researcher:<sup>15</sup>

It was a rough night with prolonged bombing of various parts of the refugee. It was terrifying and the power was out. Suddenly, we heard a huge explosion with no prior warning. It was so strong that I couldn't hear a thing and didn't understand exactly what was going on. I woke up five days later to find myself in hospital. I had a head injury, fractures in my left hand and shrapnel lodged in my body.

Iman al-Far, 33, survived the attack. She, too, told B'Tselem that the family had gathered on the first floor, adding:<sup>16</sup>

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<sup>15</sup> He gave his testimony to Khaled al-'Azayzeh on 28 August 2014.

<sup>16</sup> She gave her testimony to Khaled al-'Azayzeh on 31 August 2014.



We sat around after dinner talking about the war, about being afraid, and about things that had happened. Suddenly there was a huge explosion and I felt the living room split in half. I couldn't see anything after that – not my sister Hanan, who had been right next to me, and not anyone else. I heard my brother Mahmoud's voice. He was calling out to my brother Ahmad and to Ramzi, calling for help. After that, I crawled under a pillar that was on a slant, so I was protected from the debris. I put one hand out before me, because I couldn't see anything with all the dust, in the dark. I started feeling my way through the rubble debris until I reached the house of our neighbor, Yusef Musa. His house is across from ours, on the other side of a road that's about five meters wide. I reached them and they sat me down. I was wounded and one of their family members started giving me first aid. I washed the dirt and dust and blood off my face.

They called an ambulance, which took me to Shuhadaa al-Aqsa Hospital in Deir al-Balah. I didn't know what had happened to the rest of my family. I was examined in hospital. I had shrapnel in my legs and was very bruised. At hospital I met my brother Ahmad, who brought in my sister Jihan's sons, Sundus and Saleh. They were lightly injured.

Iman told B'Tselem that she learned only later that other family members had been killed:

I was physically and mentally injured. Because of the shrapnel in my legs, I couldn't walk for three weeks. Since then, my physical condition has improved, but I'm still in shock and cry every time I remember my family.

I miss everyone in my family but more than anything, I miss my sisters Hanan and Nivin. We used to share a bedroom. We had a very strong bond and I was closest to them. Nivin hoped to go to university to study religious law. Hanan was going into the 10<sup>th</sup> grade and she was the spoilt one of the household. She told me she wanted to switch from night school to day school so she could study under my sister Sabreen, who is a teacher.

**7. Bombing of three houses belonging to the Abu Jaber family in al-Bureij R.C.; 19 people killed, 17 of them of Abu Jaber family, 29 July 2014**

The people killed in the incident:

The parents: Hamdan Muhammad Suliman Abu Jaber, 77  
Faddah Ghanam Hassan Abu Jaber, 60

Their children: Ahmad Hamdan Muhammad Abu Jaber, 36  
His wife Sumayah 'Abd a-Rahman Muhammad Abu Jaber, 32  
Their daughter: Hala Ahmad Hamdan Abu Jaber, 4  
Jaber Hamdan Muhammad Abu Jaber, 26  
Dina Hamdan Muhammad Abu Jaber, 25  
(came with her children from al-Mghazi R.C.)  
Her son Muhammad Raed Muhammad Abu Jaber, 3  
Her daughter Sama Raed Muhammad Abu Jaber, 1  
'Aishah Hamdan Muhammad a-Sa'ud (Abu Jaber), 23  
(came from al-Bureij R.C.)  
Fadel Hamdan Muhammad Abu Jaber, 19

Their granddaughter: Tuqa Salah Khalil Abu 'Issa, 5 months old  
(came with her mother from a-Shati R.C.)

People killed in the house next door:

Anwar Muhammad Salem Abu Jaber, 35  
His wife Lina Kifah Mahmoud Abu Jaber  
Their daughters: Leen Anwar Muhammad Abu Jaber, 3  
Salma Anwar Muhammad Abu Jaber, 1

His sister: Anwaar Muhammad Salem Abu Jaber, 25

Ayman Salah Sa'id Abu 'On, 25  
Ahmad 'Omar Sa'id 'Abd al-'Aal, 23

On 29 July 2014, approximately half an hour after midnight, the air force bombed three houses in al-Bureij Refugee Camp, all of which belonged to the Abu Jaber family. One house was vacant, as its occupants had gone to one of the temporary shelters established in the Gaza Strip.

The bombing killed 17 members of the Abu Jaber family and two other people who had met that evening with a member of the Abu Jaber family.

'Omar 'Abd al-'Al, 55, a neighbor whose son Ahmad 'Abd al-'Al was killed in the attack, described what happened:<sup>17</sup>

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<sup>17</sup> He gave his testimony to Khaled al-'Azayzeh on 1 September 2014.

On Tuesday evening, 29 July 2014, I was at home with my children. It was 'Id al-Fitr holiday. During the war, there were air raids and artillery shelling in many parts of al-Bureij Refugee Camp. That day, the bombing was mostly in the northern part of the camp.

At about 11 P.M., Ahmad went out and I stayed home with the rest of the family. At 00:30 A.M., I heard an explosion that was so loud, I thought the bombing was aimed at my house. I went outside with my family. Our neighbors came out, too. We discovered that Hamdan Abu Jaber's house, which used to stand no more than 100 meters east of our house, didn't exist any more. It was completely destroyed.

One of the house bombed had been home to Hamdan and Fada Abu Jaber who lived with three of their sons, two of whom were married with children. One son had a one-year-old baby boy, and the other had three children ranging in age from a year and a half to four years old. During the fighting, Hamdan and Fada's three married daughters were also staying with them, having fled their homes in other parts of the Gaza Strip considered more dangerous.

The second house hit was home to Haniya Abu Jaber, a 65-year-old widow, her daughter, her son, his wife, and their two daughters – who were 1 and 3 years old. Haniya alone survived the bombing. She described what happened that night to B'Tselem's field researcher:<sup>18</sup>

That night, there was a lot of bombing in different parts of al-Bureij Refugee Camp. At sunset, my son Anwar went out and bought us dinner, and we all ate it together – me, my daughter Anwaar, my son Anwar, his wife Lina, and their two baby girls, Lin and Salma. It was the 'Id al-Fitr holiday and we were celebrating it together. Then Anwar and Lina went up to their apartment and the girls stayed downstairs with Anwaar and me.

About half an hour after midnight, the power went out and then, suddenly, the whole house collapsed on top of us. I heard no explosion. I lost consciousness. I woke up the next day in Shuhadaa al-Aqsa hospital in Deir al-Balah. My left leg was badly injured and I had a big wound on my head. When I woke up, I started shouting and asking about my children. My nephew 'Adnan was with me. After I pressed him, he told me they had all been killed: my daughter, my son, his wife, and their little girls. The next day, my niece visited me and told me about all the other members of the family who had been killed.

I was in hospital for three days. I was a wreck, physically and mentally. I fainted every time they told me about another death in the family. I lost my entire family and my home. I'm now living next to its ruins, in my brother Mahmoud's house.

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<sup>18</sup> She gave her testimony to Khaled al-'Azayzeh on 1 September 2014.

They bombed our homes without any warning. They didn't phone us the way they did with other people. They didn't fire a warning missile or inform the neighbors. My son Anwar was my provider. Now I'm alone, an old, wounded woman. I lost everything. I don't know how I'll carry on living.

Nihad Abu Jaber, 45, a relative who lived next door to the bombed houses, also told B'Tselem how events unfolded that night:<sup>19</sup>

On Tuesday, 29 July 2014, I went to sleep. Suddenly, I heard a very loud explosion. I woke up in a fright. The house was full of dust and smoke, and the power was out. I started fumbling around in the dark. I managed to get out of the room and found the rubble. I understood the explosion had occurred inside our house. I went into the room my mother and sister shared. Using a flashlight, I found them both under the wreckage. I also found Yamen, my cousin's baby boy. The blast had thrown him from their house into ours, a distance of about two meters. Some neighbors came and helped me get the three of them out from under the debris. My mother and sister were lightly injured. Yamen sustained burns, head injuries and fractures in his left arm and leg.

I looked around and saw that my uncle Hamdan's house had been reduced to rubble. The same thing happened to the house of my uncle Husni's widows. There was a big hole where the house had stood. My aunt Haniya's house was also in ruins, and parts of it were scattered on houses nearby. The neighbors and I started looking for more survivors. We searched with our hands, using cellphones as flashlights. We managed to get several members of the family out, and then we started pulling out the dead bodies [...].

We were bombed with no advance warning, with no prior phone call and no warning missile.

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<sup>19</sup> He gave his testimony to Khaled al-'Azayzeh on 1 September 2014.

## 8. Bombing of a-Dali building, Khan Yunis; 34 people killed, 29 July 2014

### The people killed in the incident:

#### The A-Najar family:

Jamil Ahmad Hamed a-Najar, 47

His children: Wael Jamil Ahmad a-Najar, 25

Wael's daughter: Layali Wael Jamil a-Najar, 3

Walaa Jamil Ahmad a-Najar, 22

Aya Jamil Ahmad a-Najar, 19

Du'aa Jamil Ahmad a-Najar, 17

Muhammad Jamil Ahmad a-Najar, 12

#### The M'amer family:

Ahmad Marzuq Nadi M'amer, 32, and his children:

Yazan Ahmad Marzuq M'amer, 3

Hala Ahmad Marzuq M'amer, 2

His sister: Hend Marzuq Nadi M'amer, 30

#### The Breikah family:

Subhiya Muanis Mahmoud Breikah, 58

Her son: Ahmad Faiz Ahmad Breikah, 31

His wife: Basemah Salem Salim Breikah, 35

Their daughters: Jana Ahmad Faiz Breikah, 2

Lama Ahmad Faiz Breikah, 1

Her son: Ousamah Faiz Ahmad Breikah, 16

#### The family of Ahmad Suliman Ahmad Abu 'Amer:

Ahmad Suliman Ahmad Abu 'Amer, 40

His wife Muna Hajjaj Ibrahim Abu 'Amer, 40

Their children: Muhammad Ahmad Suliman Abu 'Amer, 11

Marah Ahmad Suliman Abu 'Amer, 10

Yasser Ahmad Suliman Abu 'Amer, 8

Marwah Ahmad Suliman Abu 'Amer, 5

Suliman Ahmad Suliman Abu 'Amer, 3

#### The family of Wadah Hassan Ahmad Abu 'Amer:

Wadah Hassan Ahmad Abu 'Amer, 39

His wife: 'Orubah Suliman Ahmad Abu 'Amer, 41

Their children: 'Omar Wadah Hassan Abu 'Amer, 12

'Abd al-Ghani Wadah Hassan Abu 'Amer, 10

'Imad Wadah Hassan Abu 'Amer, 9

'Issa Wadah Hassan Abu 'Amer, 7

'Iz a-Din Wadah Hassan Abu 'Amer, 5

His brothers: Ahmad Hassan Ahmad Abu 'Amer, 35

Muhammad Hassan Ahmad Abu 'Amer, 19

A neighbor: Aya Sami Anwar a-Ramlawi, 9

On 29 July 2014, at about 8:00 A.M., the air force bombed the three-story a-Dali building in Khan Yunis. There was a kindergarten on the ground floor, and the second and third floors held a total of apartments, three of which were rented out. Ordinarily, 21 people lived in the building. They were joined by another 23 people, all members of the Abu 'Amer family from 'Abasan al-Kbireh, had been sheltering in the kindergarten since the fighting began.

The bombing reduced the building to rubble and damaged houses nearby. Thirty-three people were killed in the a-Dali building, 18 of them minors. A little girl was killed in a neighboring house.

Hanaa a-Najar, 46, lived in a rented apartment in the a-Dali building with her husband, her eight children, and her only granddaughter. She told B'Tselem's field researcher about the morning she lost most of her family:<sup>20</sup>

Tuesday, 29 July 2014, was the second day of the 'Id al-Fitr holiday. We all went to sleep in the living room, because we felt it was the safest part of the house. When I woke up, I was buried under wreckage and sand. Only my head was sticking out. My legs and back hurt badly and I could barely breathe. There were several young men around me trying to get me out from under the ruins. They dug around me and removed debris that was on top of me. I tried to look around and find my children, but I couldn't see any of them. I told the young men: "Leave me, go and find my children", but they kept digging around me.

A few minutes later, I saw a man carrying my daughter Nur. He put her down next to me. Her face and hair were covered in dust and she was screaming and crying. I saw another group of men trying to get my daughter Alaa out. She was buried under debris. I heard them say that she was breathing and still alive. At that point, people were still digging around me, trying to get me out. I think I lost consciousness after that, because the next thing I remember is waking up in a hospital bed.

After she came to, relatives told Hanaa that her husband, five of her children, and her granddaughter had all been killed. She told B'Tselem:

That morning, at around 10:00 A.M., I was taken to my brother Muhammad 'Atiya a-Dali's house. I screamed and cried the whole way. I asked to see my children one last time, but they wouldn't let me because of the condition the bodies were in. Now, two months after the bombing, I'm still living in my brother's house with my three children who survived. I still can't believe this really happened to us. I feel like I'm in a nightmare and trying to wake up.

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<sup>20</sup> She gave her testimony to Muhammad Sa'id on 29 September 2014.

My daughter Alaa, 20, can't move her hands. She can't eat by herself and has to be fed. My son Karim, 10, is in a bad mental state. He's constantly afraid, especially in the dark, and he's cross and full of anger.

Hamza a-Rimlawi, 54, a father of four, lives with his family in an adjacent building. He told B'Tselem:<sup>21</sup>

On Tuesday morning, 29 July 2014, it was relatively quiet. I could hear only distant sounds of bombing. Some of my children were still asleep, and some were already up. A bit before 8:00 A.M., I heard a loud explosion. I felt our asbestos roof fly up in the air and fall back down. Stones fell on us. I thought the explosion had been in our house. A few moments later, I heard another explosion and the ceiling collapsed. Big blocks of debris and stones fell on us. I heard my wife and children screaming but I couldn't see anything. Everything was full of dust.

It took about three minutes for the dust and smoke to begin to clear a bit. I saw my son Muhammad, 25, lying on the floor with blood trickling from his head. I also saw my sons Rami, 16, and Ahmad, 22, covered in blood and dust. My wife Butheina and my daughter Maha, 18, were screaming. The western walls of the house had collapsed. I didn't know what to do. A few moments later, neighbors came to help us. They carried us out into the street so they could take us to hospital.

In the street, I saw a lot of people running over to my neighbor Iyad a-Dali's house. That's when I understood that the attack had been aimed at his house. It was a three-story building where families rented apartments. They were also sheltering relatives who had escaped from the eastern parts of Khan Yunis.

His building was a pile of rubble. While we were waiting for the ambulance, I realized I had a head wound and saw blood on my clothes. I walked around a bit and saw the bodies of three women lying in the street that runs parallel to the bombed building. One of them was covered with a piece of cloth. I also saw the massive damage caused to other houses nearby, and neighbors carrying wounded people out of my brother's house.

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<sup>21</sup> He gave his testimony to Muhammad Sa'id on 22 September 2014.

## 9. Bombing of Balata family home, Jabalya R.C.; 11 family members killed, 29 July 2014

### The people killed in the incident:

The daughter of homeowner 'Abd al-Karim: Hadil 'Abd al-Karim Nazmi Balatah, 17

His daughter-in-law: Wafa Na'im 'Azmi Balatah, 21

Her son 'Abd al-Karim Nazmi 'Abd al-Karim Balatah, 1

His brother, who came with his family to shelter at 'Abd al-Karim's home:

Na'im Nazmi Muhammad Balatah, 45

His wife: Sahar Mutawe' Muhammad Balatah, 39

Their children: Maryam Na'im Nazmi Balatah, 24

Du'aa Na'im Nazmi Balatah, 22

Hanaa Na'im Nazmi Balatah, 19

Alaa Na'im Nazmi Balatah, 14

Israa Na'im Nazmi Balatah, 13

Yihya Na'im Nazmi Balatah, 8

On 29 July 2014, at approximately 3:00 P.M., the military attacked the home of the Balata family in the heart of Jabalya Refugee Camp, in the northern Gaza Strip. Eleven members of the family were killed.

Eight people lived in the three-room house: the parents – 'Abd al-Karim and Huda – their four children, and the wife and 13-month-old baby boy of one of their sons. As the house was made of concrete and considered relatively safe, another nine people – the family of Na'im, 'Abd al-Karim's brother – had been sheltering there since the fighting began.

At the time of the bombing, some family members were watching television in the living room, and others were asleep or out of the house. One of Na'im's sons, 'Alaa Balata, 18, described what happened:<sup>22</sup>

On Tuesday, we had lunch and sat down to watch TV. Then my father had coffee and went to sleep. We stayed in the living room and my uncle went to sleep. I stood on the staircase and asked my mother to get me some clothes, because I wanted to go over to our house and take a shower. My mother went in to get my clothes and then I heard a loud explosion a few dozen meters away from the house. I went up to the roof with my cousin Nazmi and my uncle's wife. We saw the smoke and came back down, and then we heard an explosion in the house and the sound of things collapsing.

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<sup>22</sup> He gave his testimony to Muhammad Sabah on 17 August 2014.



Nazmi Balata, 24, one of 'Abd al-Karim's sons, described what happened next:<sup>23</sup>

We heard another bombing and right then, debris fell on us. My father grabbed Muhammad and held him tight to protect him from the fallen wreckage. I was with my mother by the door. Then I saw my cousin Yehya, 8, and his mother lying on the floor at the entrance to the house. My father picked up Yehya. His head was bleeding. My mother was sobbing. My father told me there was smoke coming from my room. I went there to rescue my baby son, 'Abd al-Karim, who is 13 months old. I couldn't see anything through the smoke and dust, but I could hear him crying. I went to my sister Hadeel's room, which was also full of dust and smoke, and found 'Abd al-Karim there. I picked him up and went out through the window. Some of his fingers were missing and his leg was badly injured. I didn't see anyone else from my family in the room.

Nazmi took his son to hospital where, an hour later, the infant was pronounced dead. Nazmi was subsequently informed that his wife and sister had been killed, as were his uncle's entire family except for one son, 18-year-old 'Alaa. The funerals were held the next day. Nazmi described it:

I held my son's body and wouldn't hand him over to my relatives for burial. In the end, everyone went to the cemetery and I stayed put. I couldn't go with them, I was in shock. I didn't move and couldn't stop crying. I stayed like that for a few hours. Then I went to my uncle Jamil's house, where the rest of the family was. I sat with my mother and cried and said, "'Abd al-Karim is dead". I couldn't stop crying. She tried to comfort me but it didn't help. I pain was so intense.

'Alaa Balata, 18, who lost his entire family and currently lives with his uncle, said:

I still can't believe my entire family was killed. I'm alone now and feel very sad. I can't describe what I'm going through. I can't concentrate, I'm anxious and tense. It's very hard to say goodbye.

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<sup>23</sup> He gave his testimony to Muhammad Sabah on 16 August 2014.

## 10. Artillery shelling strikes homes in Jabalya; 18 people killed, 29 July 2014

### The people killed in the incident:

Barakeh Ibrahim Hassan 'Abd Rabo, 50  
Her sons: 'Alaa Jamal 'Ali 'Abd Rabo, 29  
    His daughter: Rahaf 'Alaa Jamal 'Abd Rabo, 3  
    Muhammad Jamal 'Ali 'Abd Rabo, 24  
    His son: Jamal Muhammad Jamal 'Abd Rabo, 1  
    'Abdallah Jamal 'Ali 'Abd Rabo, 23  
    Ibrahim Jamal 'Ali 'Abd Rabo, 20  
Halimah Mahmoud Muhammad al-Batsh, 77  
Aya Isma'il Muhammad al-Batsh, 11  
Muhammad Khader 'Atiyyah Msallam, 26  
Nihad Khalil Sa'id Suliman  
    Her son: Baraa Muhammad Hussein Suliman, 6  
    Her daughter: Halimah Muhammad Hussein Suliman, 1  
Majedah Jamal Hassan Hamuda, 50  
Kaenat 'Adel Ahmad Hamuda, 39  
Hanin Husam a-Din Khalil Hamuda, 13  
Ibrahim 'Adli Hassan 'Asaliyah, 20  
'Izat Khamis Yusef Jneid, 17

On 29 July 2014, at approximately 10:15 P.M., the military heavily shelled the area of al-'Omari Mosque, which lies in the center of Jabalya in the northern Gaza Strip. Eighteen people were killed in the shelling, some in their home, others as they tried to flee. The shelling last roughly ten minutes.

The area was considered relatively calm during the fighting. Some of those killed were sheltering there with relatives, having fled homes located in areas of Gaza considered more dangerous.

Wasfi Hamuda, 47, lost six of his relatives in the shelling, all of whom were sheltering in his home. He described what happened:<sup>24</sup>

Throughout the entire war, our area was relatively peaceful. The Israeli military demanded that residents of other areas evacuate their homes and move to Jabalya. We could even go to the mosque to pray and do our shopping in the neighborhood.

<sup>24</sup> He gave his testimony to Muhammad Sa'id on 4 November 2014.

On Tuesday, 29 July 2014, at around 22:20 P.M., I was at home when I heard a series of explosions that made the whole area shake. The heavy bombing lasted several minutes. The more time passed, the closer I felt it was getting to my house. Everyone who was in the house crouched on the floor and we were all very afraid. Then I saw a bright light through the window that faces east, immediately followed by a huge blast. We felt stones and fragments fly into the house and I heard windows shattering. We felt things were dangerous and decided to go down to the ground floor, especially when we saw the shelling didn't stop. Every minute we heard about six explosions, one after the other.

We all ran to the stairs leading down to the ground floor, bumping into each other. We were frightened and confused and the children were screaming and crying. We got downstairs and sat there for almost ten minutes of very heavy shelling. Then we heard a massive blast and stones fell down on us. Some hit people. Part of the ground floor's western wall collapsed in the explosion. Staying inside was getting more and more dangerous, and we heard neighbors running down the street, fleeing. At the point, we decided to do the same and go outside, for fear that the house would collapse on top of us.

My brother 'Abd al-Hakim opened the door and went outside, followed by five members of my family. I was standing by the door, about to go out after them, when I heard four loud explosions on the street, all close to the house. Stones and fragments flew onto us, inside the house. Then there was another explosion, very close by, and I was flung onto my back onto the floor.

Nasra 'Asaliyah, 36, was also sheltering relatives who had fled from other areas in the Gaza Strip. The shelling killed eight of the people in her house, seven of them members of the 'Abd Rabo family. She described what happened:<sup>25</sup>

At around 10:15 P.M., I was preparing dinner and setting the table. I went to the kitchen to get more plates when suddenly, stones started flying around me. I heard the noise of walls around me collapsing and glass and windows shattering. The kitchen filled with dust and I felt something warm on my legs. I looked around and saw my children and other members of my family running to the stairs that lead down to the ground floor. They were hysterical, colliding into each other. I didn't realize I was wounded and tried to walk over to flee with them, but then I felt pain in my legs. I looked down and saw blood. I tried to take a few more steps, and at the same time heard more and more explosions and the sound of things shattering in the house. Stones and gravel were flying every which way and the house filled with dust.

My husband came over and helped me down the stairs. He was terrified and confused. We felt stones and hot objects falling on us. It was very dark and I stumbled and fell a few times until we reached the door that leads out into the yard. My children and other relatives were taking cover

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<sup>25</sup> She gave her testimony to Muhammad Sa'id on 4 November 2014.

there, under the staircase. I stood there, by the door, for a few moments. I heard several explosions a minute, one right after the other, some of them really close to us. The children were screaming and crying. We wanted to leave the house but were afraid that once outside we'd be fired on. My husband wanted to go out into the street, but I asked him to wait until the shelling stopped.

After several minutes in which the firing went on and on, some of the people decided to go outside: my aunt Barakeh 'Abd Rabo and her sons 'Alaa, Muhammad, and Ibrahim. 'Alaa was carrying his daughter Rahaf, and Muhammad was holding his son Jamal. They started crossing the yard to reach the street, but when they were just a few meters away from us, there was a huge blast in the yard and they were all killed. I saw a bright flash that lit up the whole area for a split second and felt a blast of hot air push me forcefully. Stones and sand were flying around us. A few moments later, I found myself lying on the floor. I was in great pain. I couldn't hear or see my children or my relatives moving around me.

I started calling out to my husband and children, but at first no one answered. Then I heard my cousin, Alaa Jamal 'Abd Rabo, sobbing and saying "Auntie, they're all dead." The smell of blood was everywhere. I touched the floor and it was full of blood. A few seconds later, I touched the body of one them, lying next to me. I felt the body was moving, the person was breathing, but they didn't answer when I called out and I didn't know who it was. Then my husband's phone rang; it had fallen on the floor next to me. I picked it up and answered. I didn't know who was on the other end of line. I said everyone around me had been killed and begged that he send help.

About an hour later, an ambulance arrived and the wounded were taken to hospital. Nasra described what happened next:

All that time, until the ambulance arrived, I thought all my children were dead because I couldn't hear them and hadn't seen any of them except Ahmad. I didn't know where my husband was, either. An ambulance came after about an hour and took me to al-'Awda Hospital. All the way, I kept saying, "I wish I'd been killed with them." The paramedics tried to calm me down. I was so worried about my children that I didn't feel any pain, I just kept thinking what I would do if my husband and children were dead. What sort of life would I have? When I got to hospital, the doctors tried to convince me that my children were all right but I didn't believe them and refused even first aid. I wouldn't let any of them touch me until I saw my family. The doctors kept trying to pacify me and time went by.

Later, my son Ahmad came and told me that my husband had been taken to hospital with several wounds. He comforted me and said that the rest of my children were okay and had only been injuries. I was transferred to their hospital room and saw all my sons, who were wounded, except 15-year-old Mahmoud. I was afraid he'd been killed in the shelling or that the ambulance had missed him when they

took us, but after an hour of searching all the wards and various hospitals, we learned that Mahmoud had been taken to Kamal 'Udwan Hospital and that he was okay.

#### **11. Bombing of al-Bayumi family home in a-Nuseirat R.C. kills 13 people, 31 July 2014**

##### The people killed in the incident:

The daughters of 'Amer and Intesar al-Bayumi:

'Abir 'Amer 'Abd al-Hamid al-Bayumi, 18

Asil 'Amer 'Abd al-Hamid al-Bayumi, 15

Hadil 'Amer 'Abd al-Hamid al-Bayumi, 13

'Amer al-Bayumi's nephew: Al-Hassan Muhammad 'Abd al-Hamid al-Bayumi, 13

Intesar al-Bayumi's relatives who had come from al-Bureij R.C.:

Her mother: Zeinab Yusef 'Issa Zaqut, 77

A nephew (her brother's son): Hassan Naser Hussein Zaqut, 21

Wife of a nephew (her sister's son): Ni'mah Darwish Hussein Abu Shuqah, 44

Her daughters: Labibah Ibrahim Shaker Abu Shuqah, 23

Labibah's daughter: Malak Shaker Muhammad Abu Shuqah, 1

Ilham Ibrahim Shaker Abu Shuqah, 18

Killed in a nearby house:

'Abir Nahed Muhammad al-'Assar, 23

Her daughter: Rinad Ashraf Muhammad al-'Assar, 2

Her niece: Lama Raafat Muhammad al-'Assar, 6

On 31 July 2014, at approximately 8:30 P.M., the military attacked the home of the al-Bayumi family in a-Nuseirat Refugee Camp in the central Gaza Strip. Some of the debris fell on the house of neighbors, the al-'Assar family. The bombing killed 13 people.

The al-Bayumi family home is in the center of a-Nuseirat camp. 'Amer and Intesar al-Bayumi lived on the second floor of the house with their seven children. Due to the fighting and bombardments throughout Gaza, relatives of Intesar's from al-Bureij R.C. came to shelter with them: Intesar's mother, Zeinab Zaqut; the eight-person family of her brother, Nasser Zaqut; and the eleven-member family of her nephew, Ibrahim Abu Shuqah. The other apartments in the house were home to the extended al-Bayumi family. On the first floor lived 'Amer's parents, one of his brothers, and the brother's family. On the third floor lived two other brothers with their families. In total, 43 people lived in the house.

Ibrahim Abu Shuqah, 52, Intesar's nephew, told B'Tselem's field researcher how he, his wife, their seven children and two grandchildren came to be in the al-Bayumi house:<sup>26</sup>

About a week after the war began, and after the Israeli military had scattered pamphlets over al-Bureij Refugee Camp instructing residents to leave, I had no choice but to leave my house with my family. At first, we went to my wife's brother in the village of a-Zuaidah. Two hours after we got there, there was a bombing. We were frightened and left his home. From there, we went to the storerooms of Al-Majd Co., cardboard manufacturers, opposite al-Bureij camp. My brother Muhammad, 62, his wife and their seven children were with us. We stayed in the storeroom about two weeks. There were mattresses, water, gas and electricity there. Things were good.

Two weeks later, the shellings increased and the storeroom was hit by shrapnel, so we decided to leave again. We went to 'Amer al-Bayumi's house in a-Nuseirat camp. He's my aunt's husband. When my brother saw there wasn't enough room in the house for everyone, he took his wife and children and went to stay with relatives of ours in the town of a-Zahraa, north of a-Nuseirat camp. I stayed with my family in the al-Bayumi home.

A week later, during which time there were air raids on various parts of the camp, my uncle 'Abd a-Rahman Zaqt called me. He said he was sheltering in an UNRWA school in a-Nuseirat camp and suggested I come there with my family. We left the al-Bayumi house and went to the school. When we got there, we saw things were very bad. A lot of people who had fled their homes were there, and there was no water or food. We stayed there one night and went back to 'Amer al-Bayumi's. My wife and children and I sat in one room together.

At approximately 8:30 P.M., the military attacked the al-Bayumis' home and it collapsed with its occupants inside. Two of the apartments were empty at the time, as one family was outside the Gaza Strip and another was visiting relatives. There were people living in all the other apartments.

The bombing killed 13 people: ten inside the house, nine of whom were on the second floor.

Ibrahim Abu Shuqah lost his wife, two of his daughters, and his granddaughter to the bombing. He described that evening's events:

On Thursday, 31 July 2014, at around 8:30 P.M., I was at the home of relatives – the Hamadah Abu Shuqah family – about thirty meters away from my uncle's house. My cousin and I were sitting there, passing the time together. Suddenly, I heard a massive explosion and then immediately felt myself fly up in the air with the mattress I was sitting on. I couldn't hear anything right after the explosion.

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<sup>26</sup> He gave his testimony to Khaled al-'Azayzeh on 28 August 2014.

I ran out into the street and realized the al-Bayumi house had been bombed. The power was out and the street was filled with dust. I ran over to the house and tried to go in, but people there held me back because they were afraid it would be bombed again. I couldn't stay outside when my family was in that house. I turned on my cellphone flashlight, held the phone between my teeth, and started feeling my way through the wreckage with my hands. When I reached the second floor, where 'Amer's apartment had been, I found my wife under the debris. I called out to her but she didn't answer. She had been hit in the head and I realized she was dead. I carried her out into the street. I stumbled and fell in the rubble a few times on the way, because I was alone. People were afraid to enter the house.

Then, neighbors came over and helped carry out the wounded people and dead bodies, a process which lasted until early next morning. Ibrahim Abu Shuqah related:

I continued searching until the sun came up. People came over and tried to calm me down. They said there was no one left under the ruins, but I didn't believe them until they told me the names of my children and said they were in Shuhadaa al-Aqsa Hospital in Deir al-Balah. They also told me that some of the wounded had been taken to a-Shifaa Hospital.

I felt so tired. I walked away from the people talking to me and sat down a few meters away, next to a house. I asked for water, and someone brought me some. Ten minutes later, a man came and asked me about my daughter Islam. He told me he was going to get her. He brought her over, and she was all right. I found out that the force of the blast flung her about 12 meters away and she landed in a neighboring house, but she wasn't hurt.

I was very confused and didn't know whether to go to a-Shifaa Hospital or Shuhadaa al-Aqsa Hospital. I left Islam with relatives. I started walking, barefoot. It was very early in the morning and there were no cars on the road. I kept walking until I reached the entrance to a-Zuaidah (a few kilometers away). Then my cousin, Ahmad Abu Shuqah, came by and picked me up in an ambulance. He took me to Shuhadaa al-Aqsa Hospital, where I identified the bodies.

The bombing also damaged the neighbors' house, killing three others: 'Abir al-'Assar, who was nine months pregnant; her two-and-a-half-year-old daughter Rinad; and her brother-in-law and sister-in-law's daughter, Lama al-'Assar, 6. Ashraf al-'Assar, 'Abir's husband, 36, told B'Tselem what he went through that night:<sup>27</sup>

On Thursday, 31 July 2014, at around 8:15 P.M., my family and I were in our apartment, in one room. I was saying the evening prayers and the children were lying on their mattresses. Suddenly, there was a very powerful explosion and the walls tumbled down on us. My wife screamed and cried out me, and the children shouted and called out for me and their mother. I tried to get up to

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<sup>27</sup> He gave his testimony to Khaled al-'Azayzeh on 27 August 2014.

save them but I couldn't, because I was trapped under debris. I tried several times, bruising my hands and shoulders in the process.

I started shouting, calling my brothers and my father. It was dark and the house was full of dust. We were trapped under the rubble. I think we stayed that way for about 10-15 minutes. My daughters kept screaming, but my wife 'Abir, who was nine months pregnant, had fallen silent.

A few minutes later I heard voices of people who had come to help. When I heard their footsteps over the debris, I started shouting loudly, but no one heard me. I only had air coming in through a small opening in front of my nose. But I guess they heard my daughters shouting. I heard my daughter Nagham say, "Daddy's here." I heard someone getting closer. He started removing the debris, and with their help I managed to get my hand out. I pointed to where my wife, son and my daughter Rinad had been and asked them to get my wife and children out before me. They got 'Abdallah out from under the wreckage. I heard him screaming and was relieved, because that meant he was alive. Then they searched for my wife with flashlights. She was close to me and when I saw her face under the rubble, I realized she was dead because her eyes were closed and she wasn't breathing. At the same time, they also tried to get Rinad out. When I saw her, I realized she was dead too.

My wife was about to give birth. Two days before she was killed, I asked her to stay in hospital until the birth, but she insisted on staying at home with her children because of the war. She feared for their lives. The ultrasound examination showed we were supposed to have a baby girl. Sometimes, we talked about what name to give the baby and I said that if it was a boy, I would call him Ahmad. We hadn't decided on a girl's name.

## **12. Bombing of Abu Madi family home in a-Nuseirat R.C.; 6 family members killed, 2 August 2014**

### The people killed in the incident:

Yusef Da'ud 'Abd al-Mun'im Abu Madi, 68

His sons: 'Abd al-Karim Yusef Da'ud Abu Madi, 23

Hassan Yusef Da'ud Abu Madi, 17

Amin Yusef Da'ud Abu Madi, 10

His grandchildren:

Yusef Shadi Yusef Abu Madi, 6

Hala Shadi Yusef Abu Madi, two weeks old

On 2 August 2014, around midday, the military attacked the home of the Abu Madi family in a-Nuseirat Refugee Camp, in the central Gaza Strip. The house collapsed on its occupants, killing six members of the family.



The three-story house was home to the extended Abu Madi family. Parents Yusef and Ra'isa Abu Madi lived with four of their children, aged 10 to 23, in an apartment on the second floor. Their four married sons and their respective families lives in the other apartments. In total, 21 people lived in the house.

Shadi Abu Madi, 32, lived on the third floor. That day, he got home around 2:00 P.M. He described to B'Tselem what happened then:<sup>28</sup>

I took a carafe of coffee and went down to talk to my mother under the awning on the first floor. My brothers 'Abdallah and Suliman and my son Yusef were with me. Suddenly, with no warning, the house toppled down on us. My mother and I were sitting next to the staircase at the edge of the house, and that's what saved us.

The house crashed down around us in a few brief moments, and after that I couldn't see anything. Everything was full of dust and black smoke. I started feeling around in the dark, looking for my mother, my son and my brothers, but I could only feel debris all around me. I saw a weak light and moved towards it. I went out into the yard and saw that the southern part of the house had completely caved in. Some parts of the northern side were still standing.

When I got outside, I found my mother and brothers Suliman and 'Abdallah lying on the ground. My mother's legs were injured and my brothers had been hit by falling blocks of concrete. My mother asked me about Yusef and I said I didn't know.

Neighbors, civil defense teams and paramedics arrived on the scene and started searching for the rest of the family. They took Shadi away to spare him the sight of the bodies being evacuated and took him to hospital. About two hours later, Shadi Abu Madi went back to his ruined home to help search for his children – Yusef, 6, and Hala, a two-week-old baby girl. But the military had resumed bombing and the search was called off as it was too dangerous to continue. Once the bombing ceased, it was discovered that Yusef and Hala had been killed in the bombing of the house, as were Shadi's father and three of his brothers.

Other members of the family sustained varying degrees of injury. Myasarah, Shadi's sister-in-law, who was seven-months pregnant, suffered a miscarriage due to the bombing. Shadi continued:

My wife and I couldn't find any peace because we didn't find the bodies of our children, Yusef and Hala. My wife kept crying all the time and we were in a very bad mental state. After about ten days, I used the 'hudna' temporary ceasefire to go to the a-Nuseirat municipality and ask them to bring a crane to look for my children again. They said they had only one crane and that it was in use in southern Gaza, but the mayor promised to send it to me as soon as it would be

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<sup>28</sup> He gave his testimony to Khaled al-'Azayzeh on 8 September 2014.

available. Yesterday, 7 September 2014, the crane was brought over and we searched again for about four hours. We didn't find them.

My wife, our two sons and I are now living in a rented apartment. My three brothers – 'Abdallah, Suliman, and Ibrahim – are renting too. My mother is currently staying with my brother Ibrahim and caring for his sons because their mother, who was injured, is being treated in Germany [...].

My sons Mahmoud, 4, and Muhammad, 3, ask every day about their brother Yusef and their sister Hala. I tell Mahmoud they went to heaven. He asks when we'll get to where they are and when Yusef and Hala will come visit us. Hala was our only daughter. Since the bombing, my wife has deeply changed. She's withdrawn now. Sometimes she cries, and sometimes she's irritable. She doesn't eat the way she used to, and sometimes she's delusional and thinks that Hala is hungry and is asking to be nursed.

### **13. Bombing of Abu Nijem family home in Jabalya R.C.; 10 people killed, including two of Islamic Jihad operatives, 3 August 2014**

#### The people killed in the incident:

##### Home of Abu Nijem family:

Muhammad 'Abd al-Karim Muhammad Abu Nijem, 54

His sons:            Bilal Muhammad 'Abd al-Karim Abu Nijem, 26  
                          Muhammad Muhammad 'Abd al-Karim Abu Nijem, 20  
                          Ahmad Muhammad 'Abd al-Karim Abu Nijem, 17

His father:        'Abd al-Karim Muhammad 'Awad Abu Nijem, 92

##### Home of Al-Masri family:

Suha Hamed 'Abd al-Karim Nijem al-Masri, 29

Her daughter: Raghad Muhammad Sa'di Nijem al-Masri, 3

Shayma' Wael Mahmoud Qassem, 14 (of Jabalya R.C.)

Danyal Kamel Muhammad Mansur, 41

Abd a-Naser 'Abd al-Khaleq Ibrahim al-'Ajuri, 26

At approximately 9:00 P.M. on 3 August 2014 the military bombed the home of the Abu Nijem family in Jabalya Refugee Camp, in the northern Gaza Strip. The bombing destroyed the house and a neighboring house, killing two Islamic Jihad operatives who were in the house and eight other people: five people in the Abu Nijem house and a woman and two girls next door.

Husband and wife Muhammad and Fawziyeh Abu Nijem lived on the ground floor with two of their children – Muhammad, 20, and Ahmad, 17. Their son Bilal, his wife Maryam, and their two children lived on the first floor. Muhammad’s father, ‘Abd al-Karim, 92, lived on the second floor.

On the evening of 3 August 2014, Danyal Kamel Mansur, an Islamic Jihad operative, was visiting ‘Abd al-Karim on the second floor. At approximately 9:00 P.M. another man, ‘Abd a-Naser al-’Ajuri, joined them. Shortly afterwards, the military bombed the house. After the attack, the ISA announced that the military had bombed a building where Mansur, “the commander of Islamic Jihad’s northern sector”, was present and that he had been killed. The ISA added that Mansur was “in charge of the organization’s intelligence in Gaza and responsible for rocket fire during Israel’s 2012 air offensive”.<sup>29</sup>

Maryam Abu Nijem, 23, who lived on the first floor, told B’Tselem what happened that night.<sup>30</sup>

That day, we were fasting. At around 7:30 P.M., the Israeli military fired light flares. They lit up the whole area. We ate the *al-Iftar* meal (to break the fast) and washed the dishes. After prayers, we sat together for a bit and then I took my children into the bedroom. My husband sat with his mother and his brother Ahmad. My father-in-law took a cup of tea up to his father, Haj ‘Abd al-Karim, who was in his home on the second floor. I put my children to bed next to me.

The power was out at the time. Suddenly, I heard and saw our house come crumbling down around us. I cried out to my husband. I turned on a flashlight and heard my daughter Raw’ah screaming. I looked for her and found her under the blankets. I grabbed her and my son and ran out of the room. I saw Ahmad, my husband’s brother, lying dead next to the bedroom door. I saw rocks and everything in shambles. The house was completely destroyed. I heard someone groaning and looked around with my flashlight, but there was debris everywhere and I didn’t know where the sound was coming from.

I held the flashlight and carried the children over the rubble to get out of the house. I left through the next door house, which had also been destroyed. Neighbors came and took me over to one of their houses. I sat with them.

Only later was Maryam told that her husband, his two brothers, his father and his grandfather had been killed:

I wanted to see my husband one last time, but we couldn’t see them because their bodies were disfigured. They had been hit in the head. I only saw my father-in-law. They were buried

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<sup>29</sup> “Just before ceasefire goes into effect: 20 rockets fired at Israel”, *Haaretz*, 4 August 2014 (Hebrew). See also: “IDF finishes destroying tunnels and kills Islamic Jihad commander”. *Haaretz*, 5 August 2014.

<sup>30</sup> She gave her testimony to Muhammad Sabah on 17 December 2014.

the next morning. I was in a really bad way. I couldn't believe they had been killed. The house collapsed on top of us, with no warning. I just suddenly heard wreckage falling on us.

The bombing also damaged the home of neighbors Muhammad and Suha al-Masri, who were sheltering relatives of Muhammad's – Wael and May Qassem and their five children. The Qassem's had fled Jabalya Refugee Camp after the military announced its intention to bomb the mosque near their home. The bombing killed Suha al-Masri and her four-year-old daughter, Ragahad. Shaymaa, Wael and May Qassem's 15-year-old daughter, was killed as well. Muhammad al-Masri, 38, described how his house was destroyed:<sup>31</sup>

Wael and I were sitting in the living room listening to the news on the radio, because the power was out. Suddenly, we saw and heard parts of the house falling on us. Everything went dark and there was dust everywhere. We couldn't see each other.

I jumped up and went out of the room. I made my way through the debris and the dust to the front door. I couldn't see a thing. My left leg hurt. I heard some people come into the house and realized they were carrying out the people who were inside. I thought that my house had been the one bombed because of all the wreckage and how powerful the blast was. I was taken to Kamal 'Udwan Hospital. The next morning, I had surgery on my left leg.

It was only two days after the bombing, on 5 August, that friends and relatives told me my wife and daughter Raghad had been killed when Muhammad 'Abd al-Karim's house was bombed. I felt immense anguish that they were dead and wept for them both. I blacked out and came to several hours later. I still couldn't grasp what had happened to my wife and daughter.

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<sup>31</sup> He gave his testimony to Muhammad Sabah on 23 December 2014.

## **Bombing homes: Why were there so many civilian fatalities?**

One of the central obligations of all parties to hostilities is to distinguish those taking part in it from the civilian population. This obligation means that attacks must never be directed at civilian targets and that the parties to the hostilities must adopt all safety measures and precautions at their disposal, given the circumstances, so as to minimize as much as possible harm to the civilian population.<sup>32</sup>

Hamas acted in complete contravention of these rules; its operatives directed most of their attacks at civilian communities inside Israel. In contrast, Israeli officials repeatedly claimed, both during and after the fighting, that the military had acted in accordance with IHL. A case in point is the letter by Israel's Attorney General written in response to an inquiry made by the Association for Civil Rights in Israel (ACRI) during the fighting. He stated that "IDF units are instructed to act in accordance with the provisions of international law, including in accordance with the principles and provisions of the laws of armed conflict".<sup>33</sup> Four months after cessation of the fighting, the Military Advocate General (MAG), said "The laws of armed conflict are a guiding principle for the IDF and it takes determined action to implement them".<sup>34</sup>

An examination of dozens of cases in which the military attacked houses that collapsed with their occupants still inside, attacks that resulted in the deaths of hundreds of Palestinians, indicates that at least in some cases the military's actions ran contrary to IHL provisions and, in other cases, there is grave concern that they did so. This contention goes beyond the specifics of any particular attack, and relates primarily to the policy of attack formulated by the senior military command and by government officials, as it emerges from the case analysis.

The immense harm to civilians was the result of three key factors:

### **A. Broad definition of what constitutes a "military objective" that may be targeted**

A "military objective", the only legitimate target for attack by parties to hostilities, is defined as one that makes "an effective contribution to military action whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage" to the attacking side.<sup>35</sup>

Weapon and munitions stores, military bases and military vehicles meet the criteria of this definition and are therefore considered legitimate targets for attack. Objects that normally serve civilian purposes

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<sup>32</sup> Protocol Additional to the Geneva Conventions of 12 August 1949 (Protocol I), 1977, Arts. 48-58.

<sup>33</sup> Letter from Attorney General Yehuda Weinstein to Adv. Tamar Feldman, ACRI, 5 August 2014.

<sup>34</sup> Lecture by MAG Major General Dani Efroni at a conference entitled Challenges of Warfare in Densely Populated Areas, held at the Institute for National Security Studies (INSS) on 2 December 2014. See: <http://www.law.idf.il/163-6967-he/Patzar.aspx> (Hebrew).

<sup>35</sup> Protocol I, Art. 52(2).

but are used for military purposes during hostilities become military targets only if they meet the conditions stipulated in the above definition. In case of uncertainty as to what use is being made of such objects, they should be treated as non-military.<sup>36</sup>

Over the course of the fighting that took place in the summer, both government officials and top military commanders refrained from spelling out the specific objective of most of the attacks. Instead, the IDF Spokesperson provided only general figures on the number of strikes carried out each day against what the Spokesperson defined as “terror sites”. Therefore, B’Tselem has no way of knowing why the military decided to attack a certain building and why the military found it to be a legitimate target.

The IDF Spokesperson departed from this practice when it came to hits on residences of Hamas and Islamic Jihad operatives. In a release issued on the first day of the operation, 8 July 2014, the IDF Spokesperson said: “The targets included strikes on four homes of operatives in the Hamas terror organization who are involved in terrorism and in firing and directing fire toward the territory of the State of Israel”.

Yet, on the very next day, the IDF spokesperson already tried to obscure the fact that Israel’s security establishment considered these residential buildings to be legitimate targets solely because of the identity of their occupants. Instead, the IDF Spokesperson began claiming that the houses had been targeted because of the use to which they were put. Releases issued in subsequent days referred to operatives’ houses as “operational infrastructure”, “the organization’s command and control infrastructure”<sup>37</sup> or “terror infrastructure”.<sup>38</sup>

A position paper published by the MAG Corps a few days after the fighting began also argued that Hamas was using “the private residences of commanders in the military branch, where their families and other civilians also live, to carry out terrorist attacks. These houses are being used to store weapons, operate command and control centers, and conduct military communications”. According to the MAG Corps, these houses “may become legitimate military targets under international law”.<sup>39</sup>

The MAG, Major General Dani Efroni, made the same argument in a lecture he gave several months after the fighting ended:

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<sup>36</sup> Protocol I, Art. 52(3).

<sup>37</sup> IDF Spokesperson statements of 9 and 10 July 2014. For full text see IDF Spokesperson website, <http://www.idf.il/1153-he/Dover.aspx> (Hebrew).

<sup>38</sup> See, e.g., IDF Spokesperson statements of 12, 16 and 23 July 2014.

<sup>39</sup> See IDF website for paper posted 11 July 2014: “According to international law – a house used for military purposes is a legitimate target” <http://www.idf.il/1133-20899-HE/IDFGDover.aspx>

A similar version of the paper was posted on the IDF English blog site on 10 July 2014: “IDF Strikes Houses in Gaza Used for Military Purposes: When houses are used for military purposes, they may become legitimate military targets under international law”, <http://www.idfblog.com/blog/2014/07/10/idf-strikes-houses-gaza-used-military-purposes/>

Many Hamas military branch commanders – mid-level and up – had, in effect, turned their apartments also into bases or operational headquarters where they received military intel and from which orders were issued to their subordinates, including orders for operations against our troops and for firing rockets at Israel [...] During Operation Protective Edge, there was widespread use of private homes for concrete military purposes. There is no doubt that these are legitimate military targets under international law.<sup>40</sup>

It is possible for residences of operatives of Hamas or other organizations to be considered legitimate military targets, but to be defined as such, what they were actually used for must first be determined. IHL stipulates a twofold test for deciding whether a structure is a “military objective”: the structure must make an effective contribution to military action, and harming it must give the attacking party a clear military advantage.

In spite of this, the IDF Spokesperson did not explain the connection between any of the houses attacked as specified in his statements and any military activity. The term “operational infrastructure” proves nothing in itself about any alleged military use of the residence. Its repetition does, however, serve to unmask the attempt by policymakers to lend an air of legality to such attacks.

The explanations the IDF Spokesperson and the MAG provided for the destruction of operatives’ homes are unconvincing and appear to be no more than a cover-up for the actual reason for the destruction – the identity of the occupants. In this sense, these strikes constitute dozens of cases of punitive house demolitions – prohibited in themselves – carried out from the air.

The IDF Spokesperson did not go beyond listing the occupants’ past and present actions against Israel, without linking such actions to the house itself. For example, in a release issued on 12 July 2014, the IDF Spokesperson said:

As part of the destruction of operational infrastructure, the operational infrastructure of a top Hamas operative in the southern Gaza Strip, ‘Atiyyah Abu Naqirah...

‘Atiyyah Abu Naqirah, born in 1976, is a top Hamas operative in Rafah. Over the years, he has been involved in many terrorist attacks against Israel and against IDF forces, including carrying out terrorist attacks and firing mortar shells. In 2001, he was involved in the terrorist attack in which part of the Termit military post was destroyed with a powerful bomb planted inside a tunnel under the post. Over the years, he was involved in anti-aircraft, anti-tank and rocket fire toward Israel and at IDF forces. He was also very active in strengthening the Hamas terror organization.

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<sup>40</sup> MAG lecture at INSS conference, see footnote 34.

Abu Naqirah was involved in the fighting both during Operation Cast Lead and Operation Pillar of Defense and led terrorist activities against the State of Israel.<sup>41</sup>

In a statement issued on 16 July 2014, the IDF Spokesperson said: “Included among the operational infrastructure attacked tonight was the operational infrastructure of Mahmoud al-Za’ar, who serves as a member of the political bureau in the Gaza Strip, and head of the Political Committee and Foreign Liaison Department”. In this case, the Spokesperson does not even make mention of any military activity carried out by the occupant of the house, and, it follows, of how such activity might be connected to the house.

In his lecture, the MAG asserts that Hamas commanders had turned their homes into “operational headquarters” and used them when they issued instructions to fire at Israeli military forces and Israeli civilians. However, even if his description of the situation is perfectly accurate (notwithstanding that the military has presented no evidence of it), it still begs the question what concrete use was made of each house, with said use making an effective contribution to military action, and thereby making the house into a military target. The answer depends on the nature of the activities carried out in the house and how extensive they were. For example, a telephone call made in the house on an earlier occasion or a meeting held there do not constitute use that makes an effective contribution to military activity, since the call and the meeting could have been held anywhere.

Therefore, in the absence of specific information about the effective contribution a given house made to military action and the clear advantage gained by destroying it, the fact that a Hamas or Islamic Jihad military branch operative lived in it, is insufficient grounds to make the house a legitimate military target.

B’Tselem has no way of knowing in how many cases during the fighting the military attacked houses simply because of who lived in them, and in how many it attacked homes for other reasons, such as that they served to conceal weapons. Additionally, B’Tselem has no way of knowing the number of cases in which, when the military attacked a house because of the identity of its occupants, the house was vacant at the time of the strike, and in how many the house collapsed with the occupants still inside. The military alone has the answers to these questions and it refrains from providing information on this matter. All that is available are media reports, published about a week after the operation began, stating the military had attacked about a hundred homes of “Hamas and Islamic Jihad commanders”.<sup>42</sup>

B’Tselem has previously addressed the military’s far-reaching interpretation of the term “military objective”. This interpretation was in evidence on the first day of Operation Cast Lead, 27 December 2008, when the military bombed Gaza’s main police building, killing 42 cadets. In the days that followed,

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<sup>41</sup> For more examples, see IDF Spokesperson statement of 10 July 2014.

<sup>42</sup> Gili Cohen, Jackie Khoury, “Testimonies: The IDF does not always warn before bombing”, *Haaretz*, 14 July 2014 (Hebrew).



the military targeted the legislative assembly building and several government buildings in Gaza. Israeli officials justified these attacks, saying that “Anything affiliated with Hamas is a legitimate target”.<sup>43</sup> The interpretation whereby the private homes of operatives are legitimate targets was also brought to bear in Operation Pillar of Defense (November of 2012). A release issued by the Israel Security Agency (hereafter: ISA) at the end of the fighting, stated that the military had attacked approximately “30 homes of senior commanders of the military wing of Hamas, some of which also served to store arms and ammunition”.<sup>44</sup> These interpretations of the term “military objective” means that it can be applied even to patently civilian objects, which are prohibited targets.

### **B. Flexible interpretation of the concept of lawful “collateral damage”**

The parties to the hostilities must also adhere to the “principle of proportionality”, whereby when harm to civilians as a result of an attack is projected to be excessive in relation to its anticipated military advantage, the attack should not be carried out.<sup>45</sup> Obviously, this principle is relevant only in cases of legitimate military targets. Otherwise, the attack is unlawful a priori, regardless of the expected “collateral damage”.

The proportionality of an attack is measured by the projected harm it would cause to civilians and the military advantage it would give, rather than by the damage caused in actual fact. It follows that the answer to the question of whether the military complied with the principle of proportionality depends on the information it had when launching the attack, requiring the examination of matters such as: What military advantage did the military expect to gain in each of the attacks? What information did those who ordered the attack have – or should have had – with respect to civilian presence at the site of attack? Could this military advantage have been gained by other means?

The military refrains from giving the public the answers to these questions. Therefore, in the vast majority of cases, B’Tselem cannot know what considerations underpinned the attacks. Some of B’Tselem’s investigations did lead to conjectures regarding the reasons for an attack on a specific house, such as: the presence of a Hamas operative in the house at the time of the attack or several hours earlier; the fact that the homeowner’s son was an operative – at one or another level of seniority – in an armed Palestinian group; or the firing of Qasam rockets from somewhere near the house. However, in the absence of an official statement from the military, B’Tselem cannot determine with certainty why a given house was attacked, whether it met the definition of a legitimate target and if so, whether the attack may be considered proportionate.

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<sup>43</sup> Comments made by Major Avital Leibovitch of the IDF Spokesperson’s Unit in Griff Witte and Sudarsan Raghavan, “‘All-Out War’ Declared on Hamas”, *The Washington Post*, 30 December 2008. For more on this see, B’Tselem, *Guidelines for Israel’s Investigation into Operation Cast Lead 27 December – 18 January 2009*, (February 2009), pp. 11-14.

<sup>44</sup> ISA announcement of December 2012. On this see, B’Tselem, *Human Rights Violations during Operation Pillar of Defense 14-24 November 2012*, (May 2013), pp. 38-39.

<sup>45</sup> Protocol I, Art. 51(5)(b).

The MAG did no more than present the general argument that the military adhered to the principle of proportionality. For example, in his talk he said that “The IDF is assiduous in complying with the principle of proportionality when carrying out attacks, doing so only after taking many precautions, sometimes even beyond legal requirement.”<sup>46</sup> On another occasion, the MAG explained that in terms of international law, it would be wrong to examine the legality of Israel’s actions during the fighting in terms of the overall death toll, and that each attack should be examined separately, adding that, “in any case, whether or not the commander’s decision was reasonable must be examined in view of the information he had at the time of the attack, rather than retrospectively”. The MAG also said that “the law is probably the most effective tool for fending off arguments made against us”.<sup>47</sup>

However, the MAG provided no information that could corroborate his claim that the military complied with this principle. True, proportionality is measured by the information the commander had at the time he gave the order to attack, but given the fact that the attacks targeted residential buildings, and that many of them were carried out at night, the MAG should have explained why the severe harm to civilians was not anticipated at the time the decision to attack was made. This is particularly true with respect to a number of such attacks carried out during the fighting in which many civilians were killed. The MAG also failed to clarify what he considers to be “reasonable” harm to civilians, nor did he even hint at the military advantage the military expected to gain.

The severe harm caused to the civilian population is graver still considering the means at the disposal of the Israeli military, which allow it to significantly reduce such harm. First, the military’s technological capabilities enable precision hits limited to the selected target. In a publication by the Israeli Air Force regarding its actions during Operation Protective Edge, a pilot said: “We save human lives”. Another pilot explained that on several occasions, an attack was deferred until the civilians left the site of the target. A third pilot expanded: “We use precise weapons that allow us to attack many targets within a short period of time and in the right places”. According to the website, efforts to avoid harm to the civilian population are made “from the planning stages to the implementation”.<sup>48</sup> A story about Operation Protective Edge published in the journal of Israel’s Ground Forces included a description of how the Artillery Corps used the Tamuz missile during the fighting. The Tamuz is considered a “precise guided munition”. Lieutenant Colonel Tomer, commander of the unit that uses these missiles, described

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<sup>46</sup> MAG’s lecture at INSS conference, see footnote 34.

<sup>47</sup> Lecture entitled “The Military in the Grip of the Law” by MAG Major General Dani Efroni, given at a conference held by the Israeli Association of Public Law, on 2 January 2015. Published on the MAG website, <http://www.law.idf.il/163-7040-he/Patzar.aspx> (Hebrew).

<sup>48</sup> See, “Aerial Reconnaissance Division Examines Every Single Spot in the Gaza Strip”, Israeli Air Force (IAF) website, published 9 July 2014 (see, <http://www.iaf.org.il/4410-42173-he/IAF.aspx> (Hebrew)); “Airstrikes and Reconnaissance: ‘Sufa’ At Work”, IAF website, published 10 July 2014 (see <http://www.iaf.org.il/4410-42174-en/IAF.aspx>).

the unit's activities: "Our advantage over other means is the relatively low collateral damage and the constant availability to the brigade commander."<sup>49</sup>

Additionally, the military has powerful intelligence capabilities with respect to Gaza residents. Intelligence information made it possible for the military to know the precise location of people it intended to target. The Ground Forces journal mentioned above provided a detailed description of surveillance measures available to the military, including observation balloons, drones, and observation officers who analyze the findings.<sup>50</sup> Given all this, whoever gave the orders to attack knew – or should have and could have known – about the presence of civilians at the site of the target.

As part of the policy of attacking homes, the military attacked dozens of houses that collapsed with their occupants inside. Many civilians who took no part in the fighting were killed in each of these attacks. After repeated attacks with many civilian casualties, decision makers should have anticipated the severe harm caused by these attacks. Yet, such attacks persisted throughout the fighting, and the policy of firing at homes remained unaltered. In the absence of proof that the military advantage anticipated from these attacks was both unmistakable and significant, the inevitable conclusion is that the principle of proportionality has been violated.

### **C. Warning absent or ineffective**

To minimize harm to civilians, armed forces are required to give "effective advance warning" prior to the attack, "unless circumstances do not permit", in order to allow civilians to protect themselves.<sup>51</sup> The duty to take precautions is enshrined in IHL. It is not an act of goodwill on the part of the military toward the residents, but an express obligation the military must fulfill. When residents are given a warning with which they cannot comply, the warning is considered ineffective. In any event, a warning – effective or not – does not absolve the military of its obligation to continue taking all possible precautions to avoid harming civilians nor does it permit the military to operate on the assumption that no civilians remain in the area or house it intends to target.

Over the course of the fighting, the military mostly employed the following two methods of warning:

#### **1. Warning residents of a specific home the military intends to target**

In some cases, the military had a person phone a specific home, inform its occupants that the house is to be the object of an attack, and order them to evacuate. In other cases the military informed residents that it plans to attack a nearby house, and ordered them to warn their neighbors.

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<sup>49</sup> Yehonatan Sherr, "A Tuned String", *BaYabasha: Ground Forces Journal*, October 2014, No. 29, p. 15 (Hebrew).

<sup>50</sup> Avigail Bokobza, "Collecting on the Frontline", *ibid.*, p. 22.

<sup>51</sup> Protocol I, Art. 57(2)(c).

In some cases, the military used a method it dubbed “knock on the roof”. The military fires a relatively small missile at a house it is targeting, with the object of letting the occupants know that the house will shortly be targeted by a larger missile and, consequently, they must leave.

In some cases, residents evacuated their homes and escaped harm. In others, the warnings were ineffective for various reasons. Sometimes, residents were not given enough time to evacuate. In other cases, it was not clear which house was being targeted. This was especially so when the “knock on the roof” method was used while there were other attacks in progress in the vicinity and residents could not tell apart the smaller missile hitting the roof of their house. In other cases, residents who had been warned did leave the house, but people living nearby – who had not received a warning – were hurt when their homes also sustained damage in the attack.

In some of the cases we investigated, occupants told B’Tselem that they had received no warning prior to the attack, and therefore did not leave. B’Tselem has no way of knowing whether the military had given these residents a warning that they did not understand or had given no warning at all.

## **2. Warning that required residents to evacuate vast areas**

In some parts of the Gaza Strip, the military airdropped flyers calling on residents to evacuate. This occurred, for example, in Beit Hanoun and Beit Lahiya in the northern Gaza Strip, in the Gaza City neighborhoods of a-Shuja’ieyh and a-Zeitun, and in Bani Suheila and Khuza’ah in the central Gaza Strip. For example, on the night between 12 and 13 July 2014, before the incursion of ground forces into Gaza, the military distributed flyers in northern Gaza calling on residents to evacuate their homes by noon that day. The flyer distributed in Beit Lahiya said:

To the residents of Beit Lahia,

The IDF intends to attack terrorists and terror infrastructures in the area east of Al-Atatra and Al-Salatin St., and in the area west and north of Ma’bscar Jabaliya. Israel is currently attacking, and will continue to attack, every area from which rockets are being launched into its territory.

The civilians are requested to evacuate their residences by 12:00 PM today, south of Jabaliya Al-Badr via Shar’a Al-Faluja.

The IDF’s campaign is to be short and temporary. Those who fail to comply with the instructions will endanger their lives and the lives of their families. Beware.<sup>52</sup>

Tens of thousands of residents did leave their homes following such warnings. However, in some cases investigated by B’Tselem, members of families who had fled their homes in accordance with the military’s warnings, fleeing to neighborhoods considered safer, ended up perishing in an attack.

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<sup>52</sup> IDF Spokesperson statement, 13 July 2014. English version appears on IDF blog, at [http://www.idfblog.com/wp-content/uploads/2014/07/10500347\\_806521929370679\\_3330483129239796339\\_n.jpg](http://www.idfblog.com/wp-content/uploads/2014/07/10500347_806521929370679_3330483129239796339_n.jpg). Errors in original.

There were residents who remained in their homes, some by choice, others because they were unable to leave, despite the warnings. Many had nowhere to go, as the military was conducting strikes throughout the Gaza Strip during the fighting. Nowhere was safe, and without bomb shelters or secured spaces, residents were unable to protect themselves, nor could they leave Gaza, as Israel and Egypt closed the crossings into their territories, leaving residents trapped. In addition, since the fighting went on for many weeks, some residents returned home to collect various items, such as clothes and blankets. Under such circumstances, warnings that do not allow residents to protect themselves cannot be considered effective. In practice, even if this were not their intent, the warnings served only to sow fear and panic among residents who were powerless to do anything.

This situation notwithstanding, the military considered areas where it had distributed flyers as though residents had all been evacuated and viewed them as legitimate military targets that may be attacked without taking precautions. This is how Major Amitai Kanarik described the process:

We try to create a situation whereby the area where we are fighting is sterile, so any person seen there is suspected of engaging in terrorist activity. At the same time, we make the utmost effort to remove the population, whether this means dropping flyers or shelling. Ultimately, we manage to convince even those who weren't at first persuaded, until we get to a situation where the neighborhood becomes a ghost town, so that anyone who suddenly surfaces automatically becomes a suspected terrorist.<sup>53</sup>

The harm to civilians in these areas was exacerbated by the use of artillery fire which is inherently inaccurate. During the fighting, the military made extensive use of artillery inside residential areas. An article published in the Ground Forces' journal noted that about 14,500 tank shells and 35,000 other artillery shells were fired during the fighting.<sup>54</sup> According to a story in Israeli daily *Haaretz*, a senior general staff officer confirmed that the military had fired more shells than it had planned to, probably four times as many as during Operation Cast Lead.<sup>55</sup> After hitting the target, artillery shells can have a deadly effect on a radius of 50 to 150 meters from the site of explosion, and can injure people at a 100 to 300-meter radius.<sup>56</sup> A former artillery soldier gave the following description:

It is impossible to aim the shells in an accurate manner and they are not meant to hit specific targets. Different factors such as the humidity of the air, the amount of heat in the barrel and the

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<sup>53</sup> Major Kanarik heads the Military Doctrine Department at the headquarters of the Chief Infantry and Paratroopers' Officer. Avigail Bokobza, "Collecting on the Frontline", *BaYabasha, Ground Forces Journal*, October 2014, No. 29, p. 62 (Hebrew).

<sup>54</sup> "Taking Stock", *BaYabasha, Ground Forces Journal*, October 2014, No. 29, p. 47 (Hebrew).

<sup>55</sup> Amos Harel and Gili Cohen, "Top general staff officer: Troops fighting in Gaza used more ammunition than IDF planned", *Haaretz*, 14 August 2014 (Hebrew), Amos Harel and Gili Cohen, "Massive artillery shelling may have caused numerous civilian fatalities in Gaza", *Haaretz*, 15 August 2014

<sup>56</sup> Human Rights Watch, *Indiscriminate Fire – Palestinian Rocket Attacks on Israel and Israeli Artillery Shelling in the Gaza Strip*, July 2007. See Amos Harel and Gili Cohen, "Massive artillery shelling may have caused numerous civilian fatalities in Gaza", *Haaretz*, 15 August 2014.

direction of the wind may determine whether the shell falls 30 or even 100 meters from the spot at which it was aimed. For that reason, a multi-barrel artillery battery fires a barrage of shells in a certain direction knowing that statistics will work their course, and that due to the scatter and the amount of damage caused by many shells, the target will indeed be hit.<sup>57</sup>

The fire was directed at residential neighborhoods with a civilian population on site. The fact that the military elected to consider these neighborhoods military targets contradicts IHL provisions. The principle of distinction gives rise to the obligation of the parties to the hostilities to use only weapons that enable them to distinguish military targets from civilian objects.<sup>58</sup> In densely populated urban areas, such as the Gaza Strip, weapons with a possible deviation of a few dozen meters or more may result in fatalities of civilians not take part in hostilities. Even if some houses in these areas were being used for military purposes and even if residents were given warnings, entire neighborhoods cannot be considered military targets. In these circumstances, electing to use inaccurate weapons inside civilian neighborhoods is unlawful.

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<sup>57</sup> Idan Barir, "IDF soldier: Artillery fire in Gaza is like Russian roulette", +972 Blog, 8 August 2014, see <http://972mag.com/idf-soldier-artillery-fire-in-gaza-is-like-russian-roulette/95194/>.

<sup>58</sup> Protocol I, Art. 51(4).

## Conclusions

Over the course of the fighting in the Gaza Strip in the summer of 2014, more than 2,200 Palestinians were killed, thousands were injured, and tens of thousands of homes were destroyed, leaving hundreds of thousands homeless. During this time, thousands of rockets and mortar shells were fired into Israel. Five civilians and 67 soldiers were killed.

A hallmark of the fighting in Gaza this summer was the numerous strikes on residential buildings, destroying them while their occupants were still inside. This aspect of the fighting was particularly appalling: dozens of air, sea and ground strikes killed hundreds of people. Time and again Palestinian families suffered much grievous loss of life. In a single instant, so many families were ruined, with the wreckage of their lives mirroring the devastation of their homes. B'Tselem investigated 70 such incidents, with a total of 606 fatalities, the vast majority of whom took no part in the fighting: more than 70% were either under 18, over 60 or women.

The policy of bombing homes was implemented throughout the Gaza Strip all through the fighting. Testimonies by people who lived in the houses and eyewitness accounts gathered by B'Tselem's researchers paint a horrific picture. Over and over again, they described their sense of helplessness, a pervasive despair that enveloped them with the realization that they cannot shield their children or themselves even in their own homes, and told of the unbearable anguish of losing an entire family.

These attacks were not carried out on the whim of individual soldiers, pilots or commanders in the field. They are the result of a policy formulated by government officials and the senior military command. These officials backed the policy of attacking homes, reiterating the argument that the attacks conform to IHL and eschewing any responsibility for harm to civilians, laying the blame squarely on Hamas and its modus operandi.

An example of this is Prime Minister Benjamin Netanyahu saying, "Security forces are doing everything in their power to avoid harming civilians and if innocents are hurt, it is because Hamas deliberately hides behind Palestinian civilians".<sup>59</sup> Attorney General Yehuda Weinstein asserted that Israel is committed to the law, but "terror organizations make cynical, depraved, use of the civilian population as human shields against IDF operations. Regrettably, in this reality, even attacks that are lawful and proportionate under IHL may result in unintended and undesirable harm to civilians and civilian property."<sup>60</sup> Similarly, Chief of Staff Benny Gantz said that "the results in Gaza are devastating, and the tragic fault lies with Hamas leaders who operated from inside population centers".<sup>61</sup>

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<sup>59</sup> Yoav Zitun, "Two IDF soldiers injured by mortar fire in Eshkol", *ynetnews*, 10 July 2014 (Hebrew).

<sup>60</sup> Letter from Attorney General Yehuda Weinstein to Adv. Tamar Feldman, ACRI, 5 August 2014

<sup>61</sup> Yoav Zitun, "IDF Chief: Hamas badly hurt. The military will stay near the Gaza Border. The fields will grow green once more", *ynetnews*, 6 August 2014 (Hebrew)

Statements like these have been made in the past, both after Operation Cast Lead in January 2009 and after Operation Pillar of Defense in November 2012.<sup>62</sup> They were wrong then and they are wrong now. It is true that Hamas and other organizations operating in the Gaza Strip do not abide by IHL, nor do they purport to do so. As pointed out by B'Tselem both during and after the fighting, Hamas has breached these provisions, in particular, its duty to distinguish between civilian objects and military targets: not only did Hamas fire toward Israeli civilians and civilian objects, it did so from within the civilian population. Hamas operatives fired from sites located near civilian dwellings, concealed weapons and munitions inside them and dug tunnels under them. Mixing with the civilian population is contrary to the most fundamental principle of IHL, which is designed to minimize harm to civilians as much as possible and remove them from the battleground.

Given this reality, the issue at hand is what conclusions policymakers may draw from the conduct of Hamas and other armed Palestinian organizations. The above quoted statements by the prime minister and the chief of staff indicate they believe that Hamas and the military share the responsibility of taking precautions. For example, in a case in which Hamas did in fact conceal weapons in a residential building, thereby turning it into a military target that may be targeted, Israel's interpretation would be that the military would attempt to warn the building's occupants before striking. If the warning accomplishes its objective so the civilians are unharmed, Israel can use the incident to showcase how the military abides by IHL. If civilians are harmed, whether or not a warning was issued, Hamas will be held responsible.

Accepting this interpretation would mean that there are no restrictions whatsoever on Israeli action and that whatever method it chooses to respond to Hamas operations is legitimate, no matter how horrifying the consequences. This interpretation is unreasonable, unlawful, and renders meaningless the principle that IHL violations committed by one party do not release the other party from its obligations toward the civilian population and civilian objects.<sup>63</sup>

Yet this interpretation is designed to block, a priori, any allegations that Israel breached IHL provisions. It focuses exclusively on policymakers' intentions, which cannot be examined as no official information is available, while completely ignoring the outcome, even when the same deadly results are seen time and again. Several days into the fighting, decision makers surely would have had no doubts about the results to be expected from continuing the policy of attacking homes.

In light of all this, the argument that the house bombing policy is lawful must be rejected. This argument ignores the spirit and purpose of IHL, which primarily aims at reducing as much as possible the harm caused to the civilian population. This policy is unlawful through and through: from a broad and unlawful interpretation of what may be considered a military target to the subversion of the principle of proportionality, to demonstrating compliance through the use of ineffective precautions, or at all.

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<sup>62</sup> See B'Tselem, *Guidelines for Israel's Investigation into Operation Cast Lead 27 December – 18 January 2009*; B'Tselem, *Human Rights Violations during Operation Pillar of Defense 14-24 November 2012*, (May 2013).

<sup>63</sup> Protocol I, Art. 51(8).



In some cases, the military did fulfil its duties under IHL: the media extensively reported on a few cases in which attacks were called off when children were observed at its target. However, in dozens of other cases, including those covered in this report, there was extensive harm to civilians and civilian property. These cases received almost no media attention and officials generally chose not to offer any explanations, continuing instead to argue that the military obeys the law, without substantiating the claim. This is how the MAG, Major General Dani Efroni, summarized Operation Protective Edge:

The conclusion – the IDF attacks only military targets not because of the principle of distinction, but because it is deeply committed to the [ethical code of] “purity of arms”. The IDF makes inordinate efforts to minimize harm to uninvolved individuals, not because of proportionality, but because of the value of human life.<sup>64</sup>

This is not a statement that was made before the fighting began. The MAG was speaking several months after the fighting ended, when its outcome was already known: hundreds of civilians killed, dozens of families shattered. Given this outcome, it is hard to think of a reality farther removed from expressions like “purity of arms” and the “value of human life”. The MAG, like all other government and military officials who had a hand in approving the policy described in this report, can no longer just describe the military’s efforts to avoid harming the civilian population while ignoring how hard this population was in fact hit.

At the end of the day, discussing the extent to which Israel followed IHL cannot express the scale of the enormity reflected in the number of fatalities and the repeated harrowing testimonies, only a few of which were included in this report.

Fighting Hamas is, in fact, extremely challenging: How can military targets be distinguished from civilian objects in these circumstances? How is it possible to avoid harming civilians who are not taking part in the fighting, when Hamas operatives fire at Israel from within populated areas? B’Tselem does not purport to offer the Israeli government or the military any operative plans for conducting armed conflict in Gaza: that is not the role of a human rights organization. The government is responsible for responding to these challenges in ways that maintain humanity and uphold the law.

What is clear is that the policy described in this report – attacking homes from the air and the ground, resulting in their collapse with residents still inside – is not a legitimate response to these challenges. Even if political and military leaders thought this policy would bring an end to attacks on Israeli communities, they should not have implemented it both because of its foreseeable horrifying consequences as well as because of the black flag of illegality flying over it.

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<sup>64</sup> MAG’s lecture at the Israeli Association of Public Law conference. See footnote 47.