



# Human Rights Violations during Operation Pillar of Defense

14-21 November 2012

May 2013

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# Introduction

On the afternoon of 14 November 2012 the Israeli Air Force fired at a vehicle in the Gaza Strip. The strike killed the driver, Ahmad al-Ja'bari, head of the military branch of Hamas in Gaza, and a passenger, Muhammad al-Hams. This attack, which followed on the heels of weeks of escalation in violent incidents at the border between Gaza and Israel, launched Operation Pillar of Defense. The operation lasted eight days, ending on 21 November 2012, when Israel and Hamas agreed to a ceasefire.

According to the IDF Spokesperson, over the course of the eight days of the operation, the Israeli military attacked approximately 1,500 targets, including underground rocket launchers, arms-smuggling tunnels and weapons storage facilities.<sup>1</sup> According to figures B'Tselem collected on the campaign, the Israeli military killed 167 Palestinians, including at least 87 who did not take part in the hostilities, 32 of whom were minors.

According to data from Israel Security Agency (ISA), also known by its Hebrew acronym *Shabak* or *Shin Bet*, Palestinians launched 1,667 rockets from the Gaza Strip over the course of Operation Pillar of Defense. Over a quarter, 436 rockets, were intercepted by the Iron Dome air defense missile system. About ten rockets had a range greater than 60 km – including seven which were launched at the heavily populated Tel Aviv region of Israel, and two at Jerusalem.<sup>2</sup> During the campaign, four Israeli civilians and two members of the Israeli security services were killed.

International humanitarian law (IHL), which applies both to the Israeli military and to Palestinian armed groups, imposes restrictions on combatants with regard to permissible targets, weapons and circumstances for carrying out attacks. IHL provisions were devised to try to minimize injury to civilians during warfare. Accordingly, the provisions unconditionally prohibit the targeting of civilians or civilian sites. Attacks are permitted only against persons directly involved in

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<sup>1</sup> IDF Spokesperson announcement, 21 November 2012.

<sup>2</sup> See ISA website: <http://www.shabak.gov.il/English/EnTerrorData/Reviews/Pages/OperationPillarofDefense.aspx>. According to the IDF Spokesperson, 1,506 rockets were launched from Gaza at Israel during Operation Pillar of Defense. Of these, 421 were intercepted by the Iron Dome. See IDF Spokesperson announcement, of 21 November 2012.

combat and military targets making an effective military contribution to the other side.<sup>3</sup>

Even when the target of an attack is a legitimate one, the combatants must, as far as possible, adopt various precautionary measures to prevent harm to civilians. Therefore, the law permits the use only of precise weapons capable of distinguishing military from civilian targets. Furthermore, the provisions stipulate that the civilian population in the area must be given prior warning, as far as circumstances permit, to enable them to protect themselves. In any case, if projected harm to civilians significantly outweighs anticipated military benefit, attacks must not be carried out.<sup>4</sup>

Hamas and other groups operating in the Gaza Strip violated these provisions. Their violations include deliberately launching rockets at Israeli civilians and Israeli communities; firing from within civilian Palestinian neighborhoods, thereby jeopardizing the lives of the local residents; and concealing ammunition and arms in civilian buildings.

Deciding whether the Israeli military has violated IHL provisions is not as simple. Statements by Israeli officials assert the military's commitment to abide by IHL provisions. In addition, published Israeli summaries of the campaign emphasize that the military went to great lengths to prevent harm to the civilian population in Gaza.

Similarly, an ISA announcement stated that "during the attacks an effort was made to prevent injury to the innocent, and to minimize as far as possible any injury to uninvolved civilians."<sup>5</sup> This approach is also evident in an article posted on the IDF Spokesperson's website after the campaign, entitled "How did the IDF minimize harm to Palestinian civilians during Operation Pillar of Defense?"<sup>6</sup> The article explains how the military minimized harm to non-involved civilians through the use of its technological capabilities that enabled the use of "pinpoint

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<sup>3</sup> See Article 52 of Additional Protocol I to the Geneva Convention of 1977.

<sup>4</sup> *Ibid.*, Article 57.

<sup>5</sup> See ISA website: <http://www.shabak.gov.il/English/EnTerrorData/Reviews/Pages/OperationPillarofDefense.aspx>

<sup>6</sup> IDF Spokesperson's website, "How did the IDF minimize harm to Palestinian civilians during Operation Pillar of Defense?" by Yael Livnat, 27 November 2012 [Hebrew]: [www.idf.il/1133-17754-he/Dover.aspx](http://www.idf.il/1133-17754-he/Dover.aspx) For a brief summary in English, see: <http://www.idfblog.com/2012/11/22/operation-pillar-of-defense-summary-of-events/checklistinfographic/>. For a general explanation by the IDF about how it tries to minimize harm to Palestinian civilians, see: <http://www.idfblog.com/2012/11/15/how-does-the-idf-minimize-harm-to-palestinian-civilians/> (published 15 November 2012).

surgical strikes” and the option to abort missions in real-time if it is found that non-involved civilians were on-site. The article also states that commanding officers were given legal advice prior to and during the campaign, underscoring the point that the “IDF forces operate in accordance with international law, including all restrictions it imposes.” In addition, the article noted that a representative of the District Civil Liaison Office, which coordinates between the civilian population in Gaza and the military, is present at all meetings related to the fighting, and communicates the humanitarian needs of the population.

In spite of all this, B’Tselem’s investigations indicate that the military may have acted unlawfully at least in some cases. Several of these questionable cases are presented in the first part of this report. The second part of the report relates testimonies by Israeli civilians describing instances in which rockets launched from the Gaza Strip landed in Israel.

Some of the debates about Operation Pillar of Defense have focused on questions such as who initiated the campaign and whether the decision to launch it was justified. These questions are not in the domain of B’Tselem, a human rights organization. Instead B’Tselem focuses solely on an examination of the conduct of both sides during the operation.

# Background: The Gaza Strip

In September 2005, Israel completed implementation of its Disengagement Plan from the Gaza Strip, which included dismantling all the settlements there, evacuating the settlers to Israel and withdrawing the military. After the plan was fully implemented, Israel issued an order declaring the end of its military rule in the Gaza Strip, indicating it was no longer responsible for the safety and well-being of the population in Gaza.

The military withdrawal and the dismantling of the settlements led to considerably improved freedom of movement for Palestinians in the Gaza Strip. However, even after the implementation of the Disengagement Plan, Israel retained control of the crossings from Gaza into Israel, with access to the West Bank, as well as Gaza's air-space and territorial waters. Also remaining at Israel's discretion were the movement of persons and goods into and from Gaza. In practice, Israel continues to control important aspects of the lives of 1.7 million Palestinians living in Gaza, a million of whom UNRWA considers refugees.

In June 2007, after Hamas seized control of the Gaza Strip, Israel further tightened its control of the crossings and rarely allowed Palestinians to enter or leave Gaza, or to import or export goods. Three months after the Hamas takeover, in response to the continued firing of Qassam rockets at Israel, Israel's security cabinet declared the Gaza Strip a hostile entity and adopted collective punitive measures, including cutting back electricity and fuel supply to Gaza.

Israel's siege on Gaza has led to substantially reduced availability of basic supplies and medicines and a sharp rise in prices. Most factories and hundreds of businesses have closed. In 2009, there were as many as 140,000 unemployed in the Gaza Strip, some 40 percent of the workforce.

On 20 June 2010, in view of international pressure on Israel for its takeover of the Turkish flotilla to Gaza, Israel's security cabinet decided to ease restrictions on imports into Gaza. This measure included expanding the list of goods permitted into Gaza and permission to bring in certain quantities of construction materials. The cabinet decision did not, however, alter the policy regarding export from Gaza.

Only six months later would the Israeli government announce the slight lifting of export restrictions, permitting agricultural, furniture and textile exports.

In May 2011, Egypt announced it would permanently and officially open Rafah Crossing to Palestinians. As of December 2011, passage is relatively free, subject to Egyptian restrictions. Goods, however, may not be transported through the crossing.

After the implementation of the Disengagement Plan, some Palestinian groups in Gaza carried on firing rockets and mortars at Israeli communities near the Green Line, in contravention of international humanitarian law, which prohibits intentionally targeting civilians. Moreover, rockets and shells are imprecise weapons, rendering them illegal for use in civilian areas, even if targeting military objectives. In addition, Palestinians often launch rockets from heavily populated civilian areas, thereby endangering civilians. From 11 September 2005, when the implementation of the Disengagement Plan in Gaza was completed, to 14 November 2012, when Operation Pillar of Defense began, rockets and mortars fired by Palestinians killed thirteen Israeli civilians, one foreign civilian and two soldiers (one inside the Gaza Strip). In addition, an Israeli minor and a soldier were killed by an anti-aircraft missile.

For its part, Israel used a variety of military means, including artillery fire, at what the Israeli military classified as "Qassam launching areas". It designated areas near the border between Gaza and Israel "death zones," imposing open-fire regulations that permit firing at Palestinians found in those zones even if they pose no mortal danger. In addition, Israel continued carrying out targeted killings of Palestinians allegedly involved in attacks against Israel. Targeted killings have also resulted in the deaths of many uninvolved bystanders. According to B'Tselem's figures, since the implementation of the Disengagement Plan, Israel has killed 155 Palestinians in targeted-killing operations, including 87 Palestinian who were the actual targets and 68 bystanders (including 34 minors).

Since the disengagement, the Israeli military has conducted several operations in the Gaza Strip, including bombing civilian infrastructure and ground-force incursions into heavily populated areas.

Over the course of Israeli military operations from the time of the disengagement up to 26 December 2008, at least 516 Palestinians who did not take part in the hostilities were killed. This number includes 192 minors, 49 women, and 25 men over 50.

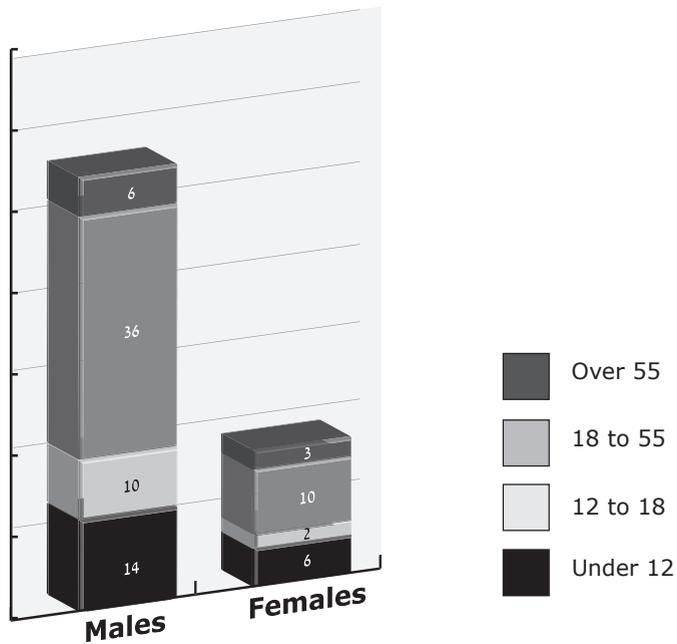
On 27 December 2008, Israel launched Operation Cast Lead, its most extensive operation in Gaza. The operation, which ended on 18 January 2009, resulted in unparalleled harm to civilian Palestinian population: 1,391 Palestinians were killed, including at least 759 civilians who did not take part in the hostilities; thousands were wounded. Israel also extensively damaged buildings and infrastructure, so that electric, water, and sewage facilities, which were on the verge of collapse even before the campaign, ceased functioning altogether. According to UN figures, Israel destroyed over 3,500 residences, rendering tens of thousands homeless.

Contrary to Israel's contention that implementation of the Disengagement Plan would end its responsibility for Gaza's population, international law imposes certain obligations on Israel, including upholding the rights of the local residents in matters of which it retained control. These obligations are based both on the extent of actual control over major facets of the residents' lives that Israel retained even after disengagement as well as from the practically complete dependence of Gaza's economy on Israel's, a consequence of the prolonged occupation.

# Statistics: Palestinian Fatalities<sup>7</sup>

According to B'Tselem's investigation, 167 Palestinians were killed by the Israeli military during Operation Pillar of Defense, including at least 87 who did not take part in the hostilities, 32 of whom were minors.

## **Palestinians who did not take part in hostilities: Breakdown of fatalities by age and sex**



<sup>7</sup> See p. 28 for number of Israeli fatalities.

**Table: Number of Palestinian fatalities, by date:**

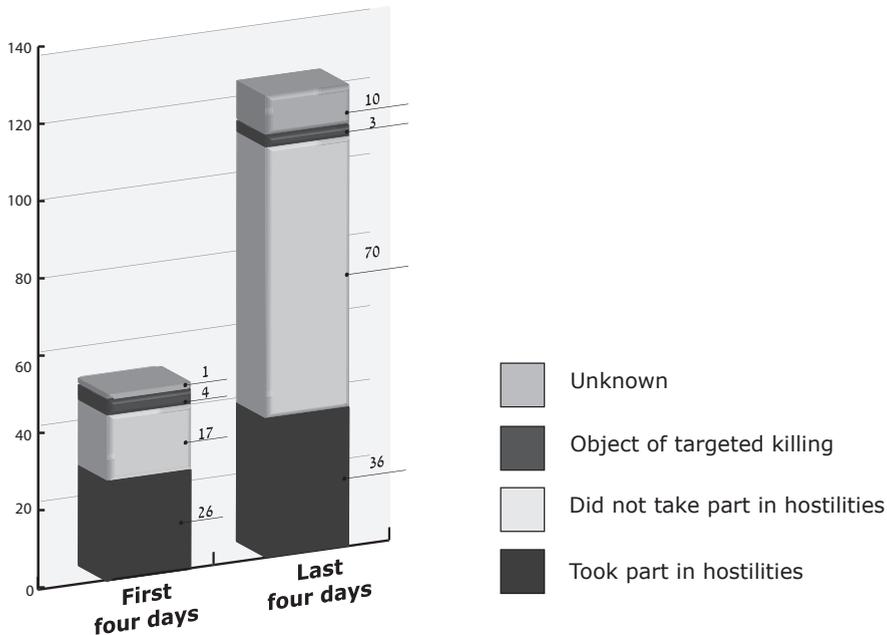
	<b>14 Nov.</b>	<b>15 Nov.</b>	<b>16 Nov.</b>	<b>17 Nov.</b>	<b>18 Nov.</b>	<b>19 Nov.</b>	<b>20 Nov.</b>	<b>21 Nov.</b>	<b>Total</b>
<b>Did not take part in hostilities</b>	2	6	5	4	26	23	10	11	<b>87</b>
<b>Took part in hostilities</b>	3	5	6	12	6	6	13	11	<b>62</b>
<b>Objects of targeted killing</b>	1	0	2	1	1	2	0	0	<b>7</b>
<b>Unknown*</b>	0	0	0	1	1	1	8	0	<b>11</b>
<b>Total</b>	6	11	13	18	34	32	31	22	<b>167</b>

\* In these cases, B'Tselem was unable to determine whether the Palestinians killed had taken part in the hostilities.

An analysis of the figures per day demonstrates a significant difference between the first four and the final four days of the operation: nearly 2.5 times as many Palestinians were killed in the last four days as in the first four days. Moreover, over the course of the final four days of the operation, the number of Palestinians killed who did not take part in the hostilities was 4 times greater than their number during the first four days.

Also of great significance is the relationship between the number of fatalities among Palestinians who took part in the hostilities and those who did not. During the first four days 1.5 times as many Palestinians who took part in the hostilities were killed as were Palestinians who did not. Conversely, during the last four days nearly twice as many Palestinians who did not take part in the hostilities were killed as were Palestinians who did:

## First Four Days vs. Last Four Days:



## Other Palestinians killed during Pillar of Defense

One Palestinian woman was killed by a Palestinian rocket. A further five Palestinians were killed in two incidents under circumstances that suggest they were hit by Palestinian rockets, but B'Tselem has been unable to confirm this.

Seven Palestinians were shot to death on the street by Palestinians during the Pillar of Defense. All seven were incarcerated until just before they were killed. Six of the seven were in prison after being convicted by the Hamas government of collaboration with Israel. One man was killed on 16 November 2012 and the other six on 20 November 2012.

# Palestinian Fatalities: Nine B'Tselem Investigations

The incident given the widest coverage during the campaign was the strike on the a-Dalu family home in Gaza City on 18 November 2012. In that incident, 12 Palestinians were killed: five minors, the youngest an infant less than a year old; five women, including one 74- and one 75-year-old woman; an 18-year-old young man, and a man who had taken part in hostilities. The IDF Spokesperson issued several versions of what happened. The initial report stated that the military had attacked the head of the Hamas rocket division; a later report indicated that the person attacked was simply an active member of the rocket division; a few hours later, the military announced that it had “probably” erred in identifying the appropriate house.<sup>8</sup> The IDF Spokesperson did not provide any further information on the incident, nor did it state whether any measures had been taken against those responsible for the error or what, if anything, was being done to prevent similar errors in the future.

On 11 April 2013, some five months after the incident, the Military Advocate General (MAG) Corps offered yet another version, saying the strike was aimed against “a senior terrorist operative and several other terrorists that were responsible for launching many dozen missile and rocket attacks”. The MAG Corps emphasized that an attempt was made to minimize collateral damage to people not taking part in the hostilities, yet “the operations staff had not foreseen that as a result of the attack, collateral damage would be caused to uninvolved civilians to the extent alleged”. Therefore, the MAG Corps determined that there is no suspicion of criminal offense in this incident “and that the unfortunate result occurred despite the efforts made to minimize the collateral damage to uninvolved civilians”.<sup>9</sup>

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<sup>8</sup> For more on the sequence of events see, e.g., “Error in identification of the house: 12 civilians killed, fate of wanted man unclear”, by Avi Issacharoff and Gili Cohen, *Haaretz* [Hebrew], 18 November 2012, and related coverage in English: <http://www.haaretz.com/news/diplomacy-defense/pillar-of-defense-day-5-1.478892> and <http://www.haaretz.com/news/diplomacy-defense/as-idf-strike-kills-entire-family-in-gaza-israel-is-starting-to-get-in-trouble-1.478879>

<sup>9</sup> [http://www.law.idf.il/SIP\\_STORAGE/files/4/1364.pdf](http://www.law.idf.il/SIP_STORAGE/files/4/1364.pdf)

This is only a partial answer and cannot justify the decision not to instigate a criminal investigation. The question is not what the individuals in charge of the attack actually anticipated, but what they should have anticipated in view of the circumstances. The answer given by the MAG Corps does not address certain issues. It remains unclear what the military did to ensure that the targeted site was clear of civilians. Secondly, no explanation is given as to how, despite the military's purported efforts, the attack resulted in such severe casualties.

B'Tselem conducted investigations of all instances in which Palestinians were killed by the Israeli military in the course of the campaign. All told, there were 92 such incidents. Fifty-one of these incidents caused the death of the 87 Palestinians who did not take part in the hostilities. Following are the findings of nine of B'Tselem's investigations of incidents that suggest that the military acted in violation of the law. In certain cases, B'Tselem was unable to determine the reason for the attack by the military. The announcements issued by the IDF Spokesperson during the campaign were non-specific. Even in cases which resulted in fatalities of Palestinians who did not take part in the hostilities, no explanations for the attack or its objective were provided by the IDF Spokesperson or any other official source. When B'Tselem has a theory about the possible object of the attack, it is duly noted in the account of the incident. The accounts are presented in chronological order.

### **1. The killing of Ahmad Abu 'Alayan, 14, of 'Abasan al-Jadidah (15 November 2012)**

On the afternoon of 15 November 2012, an Israeli aircraft attacked an olive and lemon grove in the village of 'Abasan al-Jadidah in the Khan Yunis district of the Gaza Strip. Ahmad Abu 'Alayan, 14, who was working in the grove, was mortally wounded and died of his wounds six days later. His father's uncle, Suliman Abu 'Alayan, 64, was wounded by shrapnel and taken to the hospital. B'Tselem's investigation indicates that armed Palestinians had launched rockets that morning from an olive grove near the one that was bombed by the Israeli military. However, relevant testimonies indicate that Ahmad Abu 'Alayan and Suliman Abu 'Alayan arrived at their own grove later, after the rocket fire, and had nothing to do with it.

The testimonies taken by B'Tselem state that on Thursday, 15 November, 14-year-old Ahmad, a tenth-grader, went out to work his family's land, located about one kilometer east of his home. He fertilized and irrigated the plot until around 1:00 PM when he went home. After eating lunch, he returned to the grove to finish his work.

At around 2:30 PM, Suliman Abu 'Alayan arrived at his own plot, located near the grove where Ahmad Abu 'Alayan was working. Suliman Abu 'Alayan finished his work and then recited his afternoon prayers. He related to B'Tselem what happened next:

After I finished praying, I went over to Ahmad and was standing with him on their plot. I said to him, "Let's go. The situation around here has gotten dangerous, because of the planes flying overhead." While we were talking, a reconnaissance plane bombed us. I heard the sound of the missile that landed near us and caused a powerful explosion.<sup>10</sup>

Suliman Abu 'Alayan lost consciousness. A short time later, he came to and called for help. Neighboring residents took him and Ahmad Abu 'Alayan to the hospital. Suliman Abu 'Alayan, who had been hit by shrapnel all over his body, was discharged four days later. Ahmad Abu 'Alayan had also been hit by shrapnel, which included a brain injury. After six days in a coma, he died of his wounds. Following is the account by his father, 'Awad Abu 'Alayan:

My son was hospitalized in the intensive care unit at the European Hospital because a piece of shrapnel had hit his brain. Ahmad was unconscious for six days. During that entire time, I sat by his side. I kept praying he would regain consciousness and talk to me, even just simple words. I longed to hear his voice, but it didn't happen. He died at around 11:00 o'clock on Wednesday morning, 21 November 2012.<sup>11</sup>

B'Tselem applied to the IDF Spokesperson for further information about the circumstances of the incident. In response, the Military Advocate for Operational Matters informed B'Tselem on 11 April 2013 that the case-file had been closed once "no suspicion of a criminal offense or a well-founded suspicion of violation of laws of war by any

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<sup>10</sup> His testimony was taken by Khaled al-'Azayzeh on 5 December 2012.

<sup>11</sup> His testimony was taken by Khaled al-'Azayzeh on 5 December 2012.

military entity had been found".<sup>12</sup> The response was given without any accompanying information to support this conclusion.

## **2. The killing of Samaher Qdeih, 28, Khuza'ah (17 November 2012)**

On 17 November 2012, late in the evening, an Israeli military plane bombed Khuza'ah. Samaher Qdeih, 28, was killed in the yard of her home. Her husband's son from his first wife, Nidal Qdeih, 27, was seriously wounded in both legs and taken to the hospital. B'Tselem's investigation found that the family was not involved in the fighting against Israel.

Samaher Qdeih, 28, was Naji Qdeih's second wife. Their daughter Mayar was three months old at the time. Testimony given to B'Tselem shows that, at around 9:30 PM on 17 November 2012, the couple was awakened by the noise of bombing. Naji Qdeih decided that they had best go over to the house of his first wife Maha, because it was better protected and built of concrete.

The father picked up his infant daughter and went over to Maha's house, just seven meters away. Then he returned to get some clothes and a blanket for Mayar. He asked Samaher to bring another blanket and join him. Samaher left the apartment carrying the blanket. This is Naji Qdeih's account of the events:

I went inside, took a blanket and meant to leave the room. Suddenly there was a huge explosion. Chunks of stone went flying all over the place. White smoke filled the courtyard. I walked out the door and went toward the other house. I heard my son Nidal screaming. Before the bombing he had been sitting on a chair by a palm tree, about four meters away from the balcony. I reached him by following his voice, because the dust kept me from seeing him. Then a few of my other sons arrived and we picked him up and took him out to the road. One of my sons waited with Nidal until the ambulance came and took him to the hospital. I went back to the courtyard. I found my wife Samaher lying on the ground near the steps of the balcony. I picked her up

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<sup>12</sup> Letter of 11 April 2013 from Lt. Col. Ronen Hirsch, Military Advocate for Operational Matters to B'Tselem. The letter, in Hebrew, appears in the appendix to this report.

and saw that her left leg was severed and her clothes torn. Blood was trickling from her mouth. I picked her up and asked that she recite the *Shehadatein* prayer because I realized that she was badly injured and wouldn't survive.<sup>13</sup>

Samaher Qdeih died at the scene. Nidal Qdeih was hit by shrapnel all over and particularly in his legs. Due to the severity of his injuries, he was taken to Egypt for medical treatment where he underwent surgery. He returned to Gaza about two weeks later, but as of the writing this report, he walks with crutches and is still undergoing physical therapy.

On 11 April 2013 the Office of the Military Advocate for Operational Matters informed B'Tselem that the investigation of the complaint has not yet been completed.<sup>14</sup>

### **3. The killing of 4-year-old Tammer Ise'ifan and his 2-year-old sister Jomanah, Beit Lahiya (18 November 2012)**

On 18 November 2012, Israeli military planes attacked the town of Beit Lahiya, in the heart of a densely inhabited residential area. The missile killed 4-year-old Tammer Ise'ifan and his 2-year-old sister Jomanah Ise'ifan. B'Tselem's investigation found there was an open area about two hundred meters west of their house from which Palestinians had fired rockets at Israel several times during Operation Pillar of Defense, including one time about five hours before the attack on the Ise'ifan home. Some witnesses noted that rockets had also been fired that day from a spot located about 100 meters away from the family's home.

The extended Ise'ifan family lives in a house in the Tal a-Za'tar neighborhood at the entrance to Beit Lahiya. The parents live on the first floor with several of their children. Their three married sons live on the second floor with their own children. Salameh and Rida Ise'ifan, Tammer and Jomanah's parents, lived in one of the second-floor apartments. The couple has no children apart from Tammer

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<sup>13</sup> His testimony was taken by Khaled al-'Azayzeh on 3 January 2013.

<sup>14</sup> Letter of 11 April 2013 from Lt. Col. Ronen Hirsch, Military Advocate for Operational Matters to B'Tselem. The letter, in Hebrew, appears in the appendix to this report.

and Jomanah. The tin-roofed house, constructed of cement blocks, is located in the heart of a crowded residential area.

During Operation Pillar of Defense, the family lived in a state of perpetual fear. This was the situation as described by Rida Ise'ifan, Tammer and Jomanah's mother:

Since the war started we've been hearing sounds of bombing from the open areas at Tel a-Za'tar, which is about 200 meters behind and west of our house. From this hill, local rockets were fired at communities in Israel. We didn't leave our apartment because we were frightened for ourselves and our children. Some of the time we had no electricity, especially at night. When there was no electricity and we huddled around a candle or a flashlight, we were even more frightened. It was also very cold. Jomanah and Tammer were frightened and they cried when they heard bombings. They kept close to me and their father and slept in our room.<sup>15</sup>

According to testimonies collected by B'Tselem, on Saturday, 17 November 2012, Rida Ise'ifan took her children to visit her parents in the nearby Jabalya Refugee Camp. The three returned home in the afternoon. Then, in the evening, the children had supper and watched cartoons on television. At 9:00 PM, the children went to bed. Their parents retired about two hours later.

At around 2:00 AM on 18 November 2012, when the whole family was asleep, a missile struck near their house, causing the ceiling and the walls to collapse. Members of the extended family living nearby came to the scene immediately. They extracted the father, Salameh Ise'ifan, who had been trapped underneath the debris, and his two children. Later that night at the hospital, both children were pronounced dead. Following is what their mother told B'Tselem two months after the incident:

I lost both my children at once, with no reason or warning, through no fault of their own. They were just sleeping and there was no reason to kill them. Since that day, I've been crying for them. Every time I see their clothing and things and every time I hear the voices of my little brothers-in-law, I am reminded of Jomanah and Tammer. When I go

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<sup>15</sup> Her testimony was taken by Muhammad Sabah on 15 January 2013.

to bed, I weep for them. They were my only children and I have nothing else apart from them... We had a happy life, my children were here by my side and they were the world to me and my husband Salameh. They were more precious to me than anything in the world.<sup>16</sup>

On 11 April 2013 the Office of the Military Advocate for Operational Matters informed B'Tselem that the investigation of the complaint had not yet been completed.<sup>17</sup>

#### **4. The killing of Ahmad Abu Naqirah, 61, a-Shaburah Refugee Camp (18 November 2012)**

Ahmad Abu Naqirah, 61, was killed on 18 November 2012 in a-Shaburah Refugee Camp, Rafah District, when the Israeli military bombed the house of Hamas activist Dib Abu Naqirah.

Maryam and Ahmad Abu Naqirah and four of their children lived in a-Shaburah Refugee Camp in Rafah, near the home of Hamas activist 'Atiyyah Abu Naqirah. On 16 November 2012, two days into Operation Pillar of Defense, worried that the Israeli military might try to target their neighbor's home, the family moved about two hundred meters away, to the home of another of their sons, 'Abdallah. Ahmad Abu Naqirah, the family patriarch, remained alone in his home, saying he did not feel comfortable sleeping anywhere else.

The following evening, 17 November 2012, 'Atiyyah Abu Naqirah's wife received a telephone call. An Israeli voice was on the line, telling her to vacate her house immediately. About fifteen minutes later, four small missiles were fired at her house – apparently what the military calls “warning missiles.” Ahmad Abu Naqirah's sons hurried home and got their father out of there. Another fifteen minutes or so passed before the military bombed and destroyed 'Atiyyah Abu Naqirah's house. A few nearby houses, including Ahmad Abu Naqirah's, were also destroyed.

The family returned to the home of 'Abdallah, the son. The father, Ahmad Abu Naqirah, went to sleep on farmland where he raised sheep. This land is near the home of Dib Abu Naqirah, also a Hamas activist.

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<sup>16</sup> Her testimony was taken by Muhammad Sabah on 15 January 2013.

<sup>17</sup> Letter of 11 April 2013 from Lt. Col. Ronen Hirsch, Military Advocate for Operational Matters to B'Tselem. The letter, in Hebrew, appears in the appendix to this report.

Before sunrise on the morning of the next day, 18 November 2012, another resident of the area, Muhammad Abu Naqirah, received a telephone call from a person who introduced himself as a member of Israel's intelligence services. The man instructed Muhammad Abu Naqirah to notify his neighbour, Dib Abu Naqirah, that his house would be bombed in five minutes. Muhammad Abu Naqirah asked the caller to postpone the bombing for ten minutes because his neighbor's house was distant. The caller agreed. Five minutes later, before Muhammad Abu Naqirah had managed to warn his neighbors, the caller phoned once more and repeated his instructions that Muhammad Abu Naqira tell the family to vacate their house. Muhammad Abu Naqirah left his house and shouted that the military was planning to shell the house. This is his account of what ensued:

The Dib Abu Naqirahs and all the residents in the area began leaving their homes. The street filled with people: women and children, old people and young people. The women were carrying small children in their arms. The men were carrying belongings they had taken from their homes. Each person was absorbed in himself and his family. Everything was in chaos. The situation was frightening and tense. Everyone was trying to get away from the area and find a safe place to shelter. Then I heard an explosion. Dib Abu Naqirah's house had been bombed. It was a small missile, and about three minutes later the military fired on the house again. The house was three stories high. There was a powerful explosion and a lot of damage. The street filled with smoke and dust and the house was completely destroyed.

The entire contents of the house scattered on the street. The explosion completely destroyed another five houses and partially destroyed six others. After the smoke and dust cleared, I managed to see what had happened. I walked toward the house and then found Ahmad Abu Naqirah. He was lying on the ground, seriously wounded.<sup>18</sup>

Ahmad Abu Naqirah was taken to hospital, where he was pronounced dead.

B'Tselem applied to the IDF Spokesperson for further information about the circumstances of the incident. In response, the Military

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<sup>18</sup> His testimony was taken by Muhammad Sabah on 18 January 2013.

Advocate for Operational Matters informed B'Tselem on 11 April 2013 that the case-file had been closed once "no suspicion of a criminal offense or a well-founded suspicion of violation of laws of war by any military entity had been found".<sup>19</sup> The response was given without any accompanying information to support this conclusion.

## **5. The killing of toddler Iyad Abu Khusah, al-Bureij Refugee Camp (18 November 2012)**

The extended Abu Khusah family lives in an isolated three-story house with a wall-enclosed inner-courtyard. The house, located in al-Bureij Refugee Camp about 1.5 km from the border with Israel, is surrounded by agricultural land which was bombed by Israeli planes during Operation Pillar of Defense. Therefore, the Abu Khusah children did not leave their home's courtyard. B'Tselem's investigation found that no member of the Abu Khusah family belonged to a Palestinian armed group. It was also found that no armed Palestinians had operated in the vicinity of the family's home.

On the morning of 18 November 2012, at around 8:00 AM, an Israeli plane fired into the courtyard. One-and-a-half-year-old Iyad Abu Khusah was killed by shrapnel that hit him in the head. Shrapnel hit his six-year-old brother Suhaib in the face and neck. His four-year-old cousin Sarah was hit by shrapnel in the abdomen and the lower torso. Following is an account of the incident as related by Sarah Abu Khusah, 65, the children's grandmother:

At about 8:00 o'clock in the morning, three of my grandchildren were playing in front of the house, which is part of the house's compound... Suddenly we heard a huge explosion nearby. We all ran outside to see what happened. I was in shock when I saw that the spot that was hit was right next to the wall that encloses the house, and that it had actually destroyed the wall. I saw my grandson Iyad lying dead on the ground. He had been hit directly by shrapnel. Another of my grandsons, Suhaib, was lying on the ground beside him but he was moving. Sarah was also

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<sup>19</sup> Letter of 11 April 2013 from Lt. Col. Ronen Hirsch, Military Advocate for Operational Matters to B'Tselem. The letter, in Hebrew, appears in the appendix to this report.

lying on the ground. I called for an ambulance right away and picked up Iyad.<sup>20</sup>

The three children were taken to hospital. Due to the severity of their injuries, Suhaib and Sarah were transferred to the intensive care unit. Two days later Sarah was transferred to a hospital in Egypt, where she underwent surgery on her legs. She returned to Gaza about two weeks later.

On 11 April 2013 the Office of the Military Advocate for Operational Matters informed B'Tselem that despite extensive efforts, they had found "no strike by IDF forces that matches the particulars of the complaint."<sup>21</sup>

## **6. The killing of Jalal Naser, 36, and his son Hussein, 6, Jabalya Refugee Camp (18 November 2012)**

On 18 November 2012, at around 10:00 PM, there was an Israeli air-strike on Jabalya Refugee Camp in the northern Gaza Strip. Jalal Naser, 36, and his 6-year-old son Hussein, who were on the roof of their house at the time of the strike, were injured when the roof sustained a direct hit. Hussein was killed on the spot. His father died of his wounds a few hours later, in hospital.

According to testimonies and additional information about the incident compiled by B'Tselem, no rockets had been fired from the vicinity of the Nasers' house prior to the strike. According to B'Tselem's information, Jalal Naser was not a member of any Palestinian armed group. He worked as a car dealer, buying and selling motor vehicles.

In her testimony to B'Tselem, Maryam Naser, 32-year-old mother of seven, recounted the bombing that killed her husband and son:

On Sunday evening, 18 November 2012, the whole family was home. Now and then we heard explosions and airplanes flying overhead, above the refugee camp. Just before 10:00 o'clock, we heard a powerful explosion that shook our house. My husband, Jalal, went up to the roof to see where the bomb had hit.

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<sup>20</sup> Her testimony was taken by Musa Abu Hashhash on 19 November 2012, by telephone.

<sup>21</sup> Letter of 11 April 2013 from Lt. Col. Ronen Hirsch, Military Advocate for Operational Matters to B'Tselem. The letter, in Hebrew, appears in the appendix to this report.

About ten minutes later, my son Hussein, who is six years old, went up to the roof to get his father. He was afraid that something would happen to him. A few minutes later, I heard a powerful explosion from the direction of the roof. The house filled with dust and smoke. I went outside. I was hysterical. I was crying and screaming. I asked Jalal's brothers to come over and they came to the house. I told them that Jalal and Hussein had been on the roof. We went up to the roof and called Jalal but he didn't answer. Then I saw Jalal and Hussein. They were covered in blood. I began screaming hysterically. Jalal's brothers took me out of the house and brought me to one of their houses. A few minutes later, they told me that Hussein had been killed and that Jalal was seriously wounded and on his way to the hospital. A few hours later, at around two o'clock in the morning, I was told that Jalal had died too. I was in shock and couldn't stop crying.<sup>22</sup>

B'Tselem applied to the IDF Spokesperson for further information about the circumstances of the incident. In response, the Military Advocate for Operational Matters informed B'Tselem on 11 April 2013 that the case-file had been closed once "no suspicion of a criminal offense or a well-founded suspicion of violation of laws of war by any military entity had been found".<sup>23</sup> The response was given without any accompanying information to support this conclusion.

## **7. The killing of Foua'd Hejazi, 46, and two of his sons, Muhammad, 4, and Suhaib, 2, Jabalya Refugee Camp (19 November 2012)**

On 19 November 2012, the Hejazi family – the father Foua'd, the mother Amneh, and their eight children, aged two to twenty – were in their home in Jabalya Refugee Camp. Their tin-roofed house has three rooms, a kitchen and a shower, and is located in the heart of a densely populated residential area of the camp. Testimony collected by B'Tselem shows that none of the family members had taken part in hostilities.

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<sup>22</sup> Her testimony was taken by Muhammad Sabah on 22 November 2012.

<sup>23</sup> Letter of 11 April 2013 from Lt. Col. Ronen Hirsch, Military Advocate for Operational Matters to B'Tselem. The letter, in Hebrew, appears in the appendix to this report.

At around 7:00 PM, the family sat down to supper. Some twenty minutes later, six of the children and their mother Amneh went to watch television. Their father Foua'd remained in the living room to recite the evening prayer. Two of the children – Suhaib, 2, and Muhammad, 4, remained with him and played with a bicycle.

About ten minutes later, at around 7:30 PM, their house was bombed and collapsed. A neighbor, Nassim Hiju, 50, described the moment the missile hit:

On Monday, 19 November 2012, at around 7:30 in the evening, I was in my apartment and heard the noise of bombing and the sounds of airplanes flying overhead. My wife was in the kitchen baking bread in an electric cooker. I was watching cartoons on television with my children, so they wouldn't be frightened by the bombings and the sound of the airplanes. I have four children under the age of 13. Suddenly we heard a very powerful explosion. The apartment shook and I heard glass shatter. The children screamed and cried. I was alarmed and got up right away. Everyone in the house was shouting; we didn't know what had happened. We went downstairs and found that Foua'd Hejazi's house had been bombed.<sup>24</sup>

Foua'd and two of his children, Suhaib and Muhammad, were killed in the bombing. The mother was wounded and taken to Egypt for medical treatment; a daughter, Nur, 19, sustained serious back injuries – her spine had been fractured. As of the writing of this report, she is confined to a wheelchair. The other children sustained light injuries. Following is Nur Hejazi's account of what transpired:

On Monday evening, 19 November 2012, we were watching television. At around 7:30, I saw the flash of a bomb and then the house fell down on top of us. I heard the walls breaking and cracking. I was hurled through the air and landed in the house of our neighbor 'Ayed Abu Salaha. Then I fainted.

I regained consciousness about two hours later and found myself at Kamal 'Adwan Hospital. I felt terrible pain in my back and was told that my spine had been fractured. I was

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<sup>24</sup> His testimony was taken by Muhammad Sabah on 30 December 2012.

discharged four days later. I am still in pain and lying on my back. I can't sit or walk, and must use a wheelchair. The doctors said things would be this way for at least two months. I can't go to school, even though this school year is crucial to determining my future.

I lost my father and my brothers Suhaib and Muhammad. I was very close to my father, who always showered me with warmth. It wasn't just the bond between a daughter and her father, but a bond of real friendship. I lost a good and dear person. I also lost two little brothers who I always played with. When I'd come home from school, they'd run to me and hug me. My mother was also injured, suffering a concussion and lacerations all over her body. I pray that she comes back safely from Egypt. She's all I have left.<sup>25</sup>

On 11 April 2013 the Office of the Military Advocate for Operational Matters informed B'Tselem that the investigation of the complaint had not yet been completed.<sup>26</sup>

## **8. The killing of Yusra a-Shawa, 18, Mahmoud a-Zuhri, 21, Saqer Bulbul, 57, and Tareq Hajilah, 40, Gaza City (20 November 2012)**

On 20 November 2012, a delegation composed of Arab foreign ministers and the foreign minister of Turkey visited Gaza City. Many people lined the streets of a-Shuja'iyyeh neighborhood, waiting to see the convoy.

Around 4:30 PM, a few minutes after the convoy had passed and while the street was still filled with crowds, two missiles were fired into the apartment of the a-Shawa family, located on that street. Four people were killed in the bombing, including Yusra a-Shawa, 18, who was inside the apartment. Three other people were killed on the street: Mahmoud a-Zuhri, 21, Saqer Bulbul, 57, and Tareq Hajilah, 40. More than twenty other people were injured in this incident. According to B'Tselem's investigation, none of the Palestinians killed had taken part in the hostilities, nor did any of the residents of the house that had been bombed.

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<sup>25</sup> Her testimony was taken by Muhammad Sabah on 1 December 2012.

<sup>26</sup> Letter of 11 April 2013 from Lt. Col. Ronen Hirsch, Military Advocate for Operational Matters to B'Tselem. The letter, in Hebrew, appears in the appendix to this report.

In her testimony to B'Tselem, Muna a-Shawa, Yusra's mother, recounted the bombing:

From the time the war began we stayed at home and followed the news. We also watched the visit by the Arab foreign ministers to Gaza on television. They visited the a-Shuja'iyeh neighborhood and several homes where bereaved families were receiving condolence visits. Things were quiet as the Arab foreign ministers' convoy went by. Three of my children also went down to see the convoy go through the neighborhood. The street was full of people. My daughter Yusra, 18, was sitting watching television in our western room. I was standing by the window of the eastern room, next to Yusra's room, and was about to call my children – Mustafa, Muhammad, and Mahmoud – to come upstairs.

At about 4:30 PM, before I had a chance to call them, I heard an explosion inside my apartment. I saw dust and debris flying everywhere. I felt pain. I took a few steps and took hold of Yusra's hand. She took half a step together with me and then fell down. I tried to find her but couldn't because of all the dust and debris. I called out to her but she didn't answer. I got to the front door. My son Muhammad came to the door, grabbed me and took me down to the street. I said to him, "Go find Yusra." He told me she had been killed. People tried to give me first aid, but I told them to leave me alone and that I wanted to see my daughter. But my children, along with other people, forced me to get into an ambulance because my left leg had been wounded and I was bleeding. When I got to the hospital, they began giving me first aid, but I wouldn't talk with anyone and said that I wanted Yusra. I wanted to see her and make sure that she was okay, but I could feel that she wasn't all right.<sup>27</sup>

Amin al-Ghalban, 41, gave B'Tselem his account of what happened when the people on the street were hit:

I have a shop called al-Haitham Mobile Phones Center. We sell and repair cell phones. The shop is located on Baghdad Street in a-Shuja'iyeh neighborhood, near the a-Shawas'

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<sup>27</sup> Her testimony was taken by Muhammad Sabah on 26 November 2012.

home. Tareq 'Awni Hajilah is my partner in the shop. Since the war began, we've been opening the shop at 10:00 or 11:00 in the morning and closing at 4:00 in the afternoon, because of the fear and the bombings from the airplanes circling over Gaza.

At around 4:15 on Tuesday afternoon, 20 November 2012, we closed the shop as usual. My partner Tareq Hajilah and I stood for a little while next to the shop door and then Tareq left. He had walked about ten meters when I heard an explosion and saw smoke and dust coming from Basel a-Shawa's apartment. The whole street was enveloped in dust.

I took out my mobile phone and called Tareq to make sure he was okay, but I couldn't reach him. I stayed where I was for a couple more minutes, and then Tareq's brother answered the phone and told me that Tareq had been killed.<sup>28</sup>

The document that the MAG Corps issued provided an identical answer to the one about the investigation of the a-Dalu family (see above). Similarly, no information was provided to explain the discrepancy between the efforts reportedly undertaken to minimize harm to civilians and the actual devastation.

## **9. The killing of Talal al-'Asali, 48, his son Ayman, 19, and daughter 'Abir, 11, of Jabalya Refugee Camp (21 November 2012)**

On 21 November 2012, the last day of Operation Pillar of Defense in Gaza, at around 1:00 PM, there was an Israeli air strike on an agricultural area located near residential homes in Jabalya Refugee Camp in the northern Gaza Strip. The bombing killed Talal al-'Asali, 48, and two of his six children – his son Ayman, 19, and daughter 'Abir, 11. According to testimony given to B'Tselem, at the time of the strike, the three were out in the fields collecting herbs for tea. According to testimony collected and additional information obtained by B'Tselem about the incident, no rockets had been fired from that location before the al-'Asali family was hit. Relatives said that Talal

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<sup>28</sup> His testimony was taken by Muhammad Sabah on 26 November 2012.

al-'Asali grew herbs that he then sold in the market, and that he had no connection to Palestinian armed groups.

The mother of the family, Tamam al-'Asali, 40, told B'Tselem that on midday on Wednesday, 21 November 2012, the family had eaten lunch together and that, after they finished, her husband Talal asked her to make tea for everyone. Talal went outside to a nearby area that he cultivates to pick some herbs for tea. Two of his children, his son Ayman and daughter 'Abir came along. This is Tamam al-'Asali's account of what happened next:

I began preparing the things for tea when suddenly I heard a powerful explosion from behind the house. I went outside immediately and ran to the place where Talal and the children were. Even before I reached them, I could already see Talal and Ayman lying on the ground, covered in blood. The moment I saw them I started screaming and crying. I was in shock. I couldn't believe my eyes. I understood that my husband had apparently been killed instantaneously. Ayman was still moving a little bit. I didn't see my daughter 'Abir. I felt dizzy and weak. Then, apparently, I passed out.<sup>29</sup>

Tamam al-'Asali regained consciousness a short time later, at home, surrounded by neighbors and relatives who had come to offer condolences. They told her that her husband and son Ayman had been killed in the bombing. Later, her relatives told her that her daughter 'Abir had also been killed. Tamam al-'Asali told B'Tselem:

I was in shock when they told me that 'Abir had also been killed. I screamed and cried hysterically. Three members of my family killed at one blow. I lost them all in an instant, for no reason. Every time I recall the incident, I am terribly sad and I cry for them.<sup>30</sup>

On 11 April 2013 the Office of the Military Advocate for Operational Matters informed B'Tselem that the investigation of the complaint had not yet been completed.<sup>31</sup>

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<sup>29</sup> From her testimony taken by Muhammad Sabah on 6 December 2012.

<sup>30</sup> From her testimony taken by Muhammad Sabah on 6 December 2012.

<sup>31</sup> Letter of 11 April 2013 from Lt. Col. Ronen Hirsch, Military Advocate for Operational Matters to B'Tselem. The letter, in Hebrew, appears in the appendix to this report.

# Attacks on Israelis

The firing of rockets by Palestinian groups into Israeli territory was unlawful because it targeted civilians and civilian sites. Furthermore, the rockets used are too imprecise a weapon to distinguish military from civilian targets. Therefore, even had any attempt been made to do so, the use of rockets in civilian areas is illegal in and of itself.

Over the course of Operation Pillar of Defense, four Israeli civilians were killed by rockets: Three were killed on 15 November 2012 in a direct hit by a Grad rocket on a home in the southern Israeli town of Kiryat Malachi. One civilian was killed on 20 November 2012 by a mortar shell. Two members of the Israeli security forces were killed by mortar shells – one, on 20 November 2012, and the other, who was hit on 21 November 2012, died of his wounds the following day.

During Operation Pillar of Defense, B'Tselem heard testimony from several Israeli civilians, some of whose stories are presented below.

## **1. Rocket lands in yard of Estela, 65, Eshkol region, southern Israel (17 November 2012)**

At midday on Saturday, 17 November 2012, Estela was in her home in the Eshkol region in southern Israel preparing lunch when she heard a Color Red Warning. Following is her account to B'Tselem of what happened next:<sup>32</sup>

I went into the secure room and then heard a rocket exploding on impact. I remembered that I had forgotten to turn off the gas because I had been in the middle of making lunch. I went back to the kitchen and turned off the gas. I returned to the secure room and then another rocket landed. Once it had been quiet for a while, I left the secure room. I'm used to rockets landing because I have lived in this community for 12 years and it happens all the time. I thought to myself, okay, it's landed. It seemed to be very close and the explosion was loud, but okay... I wasn't worried.

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<sup>32</sup> Her testimony was taken by Miriam Leedor on 17 November 2012, by telephone. The witness declined to have her full name published.

I headed back to the kitchen to continue making lunch. What a shock! Tons of broken glass in the house. Everything in the kitchen had fallen to the floor. Windows had broken and pictures had fallen off the walls. I went into the living room and saw that the windows were broken there too. The bathroom and bedroom were also a wreck. I said to myself, this is mine, it landed here!

I was so unnerved that I didn't know what to do. I wanted to call the unit that handles this kind of situation in our kibbutz, but I was upset and confused. I didn't know what to do. A neighbor came in and asked if I was all right. I said yes, I'm okay.

My son lives abroad and I had been speaking with him ten minutes earlier on Skype. I'd told him that I was going to make lunch. I called him back and told him that a rocket landed by my home. He was very upset and asked if I was all right. I said I was, but I was very upset. The rocket had landed in my garden, and neighboring houses were also damaged. Within minutes, more neighbors began arriving. Then the head of the Eshkol Regional Council and the Minister of Public Security came. I think they must have been touring the area at the time. They were all very nice to me. Soldiers also came and tried to reassure me.

Gradually, I calmed down. I wasn't quite back to normal, but I took hold of myself and said, okay, calm down. I called my sister and we decided that it would be better if I went to stay with her because she lives outside the range of the rockets. She came to get me and since then I haven't been home. It's hard for me to go back.

Because of the situation, we are always under the threat of rockets. We try to live normally, but we're always running this way and that because of the sirens and alerts. We live with this routine, and no one thinks it will happen to them. But now, it actually happened to me. It has happened to many people in my community. Mine is not the first house that's been hit. When it happens to someone else, I feel their pain. But it's different, it's impossible to really understand it. Suddenly there I am, saying, my goodness – it's happened

to me. It unbalances you, makes you irrational. Why? What happened? What is this? What have they done to me?

I hope that there will be peace. I hope that this won't end for just a month or two and then start all over again. I want us to have peace and quiet, to live in peace with our neighbors. I understand the other side and that they're suffering too. I want to live in peace with them, but they have to let us live. It's very hard.

## **2. Civilians injured in rocket attack near Ofakim (18 November 2012)**

On Sunday 18 November 2012, Judi Ronen, a 58-year-old resident of the agricultural community Sde Nitzan in southern Israel was on her way home from Soroka Hospital in the city of Beersheba where she works as a midwife. On the road just outside the city of Ofakim, a rocket fired from the Gaza Strip exploded near the car in which she was a passenger. The website of Magen David Adom – emergency medical and ambulance services – reported that four people had been injured in the rocket attack: one seriously, one moderately and two suffered mild injuries. Ronen relayed the following description of events to B'Tselem:<sup>33</sup>

I was on my way home from my job at Soroka Hospital. Two other women who live in the area were with me in the car. Just as we reached the traffic light near Ofakim we heard the Color Red Warning. We crossed the intersection and continued driving another ten meters or so until we reached a bus stop, where we stopped the car. We got out and lay down on the ground. I heard a terrific explosion, shortly followed by another. We saw that at the traffic light behind us, where we had been just moments before, a car had been hit and a person injured. I'm a nurse and there was a doctor in the car with me. It wasn't long before soldiers arrived on the scene and tended to the wounded man. I don't know if there were any other people in the car that had been hit.

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<sup>33</sup> Her testimony was taken by Miriam Leedor on 18 November 2012, by telephone.

At that point it was very difficult to make out the condition of the wounded man. I couldn't see what part of his body had been hit. He was lying on the road and seemed to be in a state of shock, but he was conscious. Shortly afterwards an ambulance took him to the hospital.

I think that the rockets landed in a field near the road. The back window of the car was shattered but I couldn't see whether the rocket had hit the car or whether the car had been damaged by the blast.

When this happened I felt uncontrollable dread spread throughout my body. When something like this happens near you it's different than when you hear about it happening elsewhere. It's scary. I've been living here in the south for many years. You hear about it all the time, but until you actually see it happen next to you, how shall I put it, it doesn't concern you as much. There's a sense of luck that I wasn't injured, whereas a person who was standing where I had been just seconds before was.

After we calmed down a bit, we continued on our way. We continue to drive to work in Beersheba every day.

### **3. Qassam rocket lands in Kibbutz Nir Am, southern Israel (19 November 2012)**

Alex Ya'akov, 26, a resident Kibbutz Nir Am in southern Israel, a film student at Sapir College, gave B'Tselem an eyewitness account of a Qassam rocket landing at Kibbutz Nir Am on Monday, 19 November 2012. He described what his life was like during Operation Pillar of Defense:<sup>34</sup>

At about eight o'clock in the morning, three sirens woke me up. I live in a trailer home and it has no secure room. The trailer park is the students' neighborhood and it's located in the most remote section of the kibbutz. A *migunit*, a portable bomb shelter, was placed near the homes. It's a reinforced cube of 2 X 2 meters, but it's far from my house and has no electricity, so I don't usually go there during an

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<sup>34</sup> His testimony was taken by Miriam Leedor on 19 November 2012, by telephone.

alert. The thought of being in that tiny, dark shelter when a Qassam rocket falls frightens me more than being at home. I looked out the window just as a Qassam landed about 20 meters away. The windows shattered and the whole house shook. I went outside. I was pretty much in a panic because I'd only just woken up and the rocket was the first thing I saw when I opened my eyes. I went outside and went to the nearest *migunit*. There were a few more sirens. Then I went out to see the Qassam. There was another siren and another Qassam fell on the kibbutz, but somewhere else.

During one of the sirens that day, I was with a few other students in the *migunit*. Even when the sirens stopped, we didn't want to leave. It looked like a support group. We stayed together in the small, dark *migunit* and just stood there for 20 minutes after the sirens stopped, just standing and talking. It was as if we were trying to bring ourselves back to normalcy.

Everything is scary now. The tension and vigilance is unreasonable. For example, later in the day, I went to my parents in the nearby town of Dimona, to celebrate my sister's birthday. On the way there I heard a bus braking and instinctively crouched. About ten hours after the Qassam fell [near my house], I heard a door slam and right away I was on guard. The door slamming was the only thing I heard, out of everything else happening around me. The brain is continually in alert mode. Our situation here in Nir Am and in the town of Sderot is like in wartime.

In the evening I went back to Nir Am, because the coffee shop I work at wouldn't cancel my shift. In the end I didn't go in for my shift. I talked with the manager at the coffee shop and told him I couldn't come because I'd be in mortal danger coming in to the shift. He said that he understood the situation and let me off.

#### **4. Grad rocket hits Beersheba apartment building (20 November 2012)**

On the morning of 20 November 2012, the seventh day of Operation Pillar of Defense, a Grad rocket landed near an apartment building in the city of Beersheba, in southern Israel, extensively damaging a vehicle and nearby homes. Marina Bonadarev, 41, who lives in the building recounted the incident to B'Tselem:<sup>35</sup>

I returned from a night shift at the factory. I changed and was getting ready for bed when I heard the siren. It was about 8:00 AM and my three children – my 16- and 18-year-old sons and my five-year-old daughter – were home. I took my daughter in my arms; she was barefoot and hadn't gotten dressed yet. We all ran to the stairwell and went down one floor. We heard a huge explosion. I handed my daughter to my eldest son and ran back to the apartment to get dressed. When I walked into the apartment, I saw that it was seriously damaged. There was wreckage and broken glass everywhere. I ran out.

The Home Front Command people arrived quickly. The firefighters took a little longer to arrive. Or maybe it only seemed that way, because a car on the street went up in flames and I was afraid it would cause another explosion, from the gas or something. My older kids were relatively okay. My little girl was upset and crying. She kept asking me: "Where will we live now?"

Then we drove over to the casualty treatment center. There was a psychologist there who spoke with her. He told me that she was okay and we went home.

I was afraid to go into the apartment because I kept thinking about the future, about where we would live. I was afraid that the entire apartment had been destroyed. Mainly I thought about my children, and about what I would do with them if we had nowhere to live. After we got back home, Property Tax officials came by. They looked things over, took pictures, and told us that we'd have to repair everything ourselves

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<sup>35</sup> Her testimony was taken by Helen Yanovsky on 20 November 2012, by telephone.

and that we'd be reimbursed in three months based on what an appraiser determined. That was it. They left and we started cleaning up. All the window panes and frames were broken. Everything has to be replaced. Everything inside the apartment that was made of glass shattered.

# Conclusions

Operation Pillar of Defense lasted eight days. During the operation, 167 Palestinians were killed. This number includes at least 87 Palestinians who did not take part in hostilities, 80% of whom were killed during the last four days of the campaign. Inside Israel, rocket fire killed four Israeli civilians and two members of the Israeli security services. On both sides, dozens of people were injured and hundreds of thousands lived in a state of anxiety. In the Gaza Strip, which has no alert sirens or shelters, people fled the threat of bombs for places of perceived safety; inside Israel, residents either spent entire days in shelters or ran into secure rooms whenever a siren or warning was heard. There was extensive property damage as well as severe economic damage to residents and businesses.

Operation Pillar of Defense was significantly different from Operation Cast Lead which took place about four years previously. The harm to the civilian Palestinian population during Operation Cast Lead was enormous: over the three plus weeks of the campaign, 1,391 Palestinians were killed, including at least 759 who did not take part in the hostilities. Thousands more were wounded, hundreds of homes were destroyed and civilian infrastructures were severely damaged.

Granted, Operation Pillar of Defense was of shorter duration than Operation Cast Lead and was conducted entirely from the air. However, the less extensive harm to civilian population during Pillar of Defense should probably be attributed also to the fact that this time, the Israeli military adopted a different open-fire policy and firing was more restricted and focused. Nonetheless, in this report, B'Tselem seeks to draw attention to violations, or alleged violations, of the law, based on the conduct of both sides during the campaign.

IHL is designed to protect civilian population during warfare and minimize the number of civilian casualties. To that end, the law stipulates many restrictions on the actions of the combatants, with regard to permissible targets and various mandatory precautionary measures. These rules are especially important when combat takes place in a civilian setting as densely populated as the Gaza Strip and the sides are obliged to do everything in their power to prevent harm to civilians.

Israeli officials, notably the IDF Spokesperson, have declared explicitly – both in the course of the campaign and immediately after it ended – that the operation was conducted in accordance with IHL. In April 2013, approximately five months after Operation Pillar of Defense, the MAG Corps published its conclusions following a thorough military investigation, stating that “the IDF forces involved in attacks carried out during Operation ‘Pillar of Defence’ generally acted with utmost professionalism, and consistently implemented the Law of Armed Conflict [...] A considerable emphasis was put on minimizing collateral damage to uninvolved civilians and civilian property, beyond the requirements of the Law of Armed Conflict.”<sup>36</sup>

However, the MAG Corps document is general and vague. Its writers provide a detailed explanation of the procedures for examining incidents that occurred during the operation. Yet they do not provide any real explanation for the great harm to Palestinians who did not take part in the hostilities. Nor does the document inform the readers regarding any of the following: the actual intended targets; the measures taken to ensure that no harm comes to Palestinians not taking part in the hostilities; and the measures taken, once it was found that such harm occurred, to prevent recurrences.

Instead, the writers of the MAG Corps document gave two partial explanations for these consequences. The first is that it was “unintended damage resulting from an attack against military targets, or alternatively from operational errors, where civilians were mistakenly identified as terrorist operatives.” Undeniably, not every injury to a person who did not take part in hostilities is a violation of the law, and errors are certainly possible in the course of combat. That said, the military must do everything in its power to prevent such mistakes, and when they do occur, to examine their underlying causes and what can be done to prevent recurrences. The MAG Corps document does not indicate that any of this was done, and even had it been done, it remains unclear what measures were taken to prevent future incidents.

The second explanation is that injury to Palestinians who did not take part in the hostilities, “while regrettable, does not indicate a violation of the Law of Armed Conflict, and stems directly from actions of Palestinian terrorist organizations which have chosen to conduct their unlawful activities from within the civilian population.” To be sure, Hamas and

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<sup>36</sup> For the document in full, see: [http://www.law.idf.il/SIP\\_STORAGE/files/4/1364.pdf](http://www.law.idf.il/SIP_STORAGE/files/4/1364.pdf)

other Palestinian armed groups acted in complete contravention of IHL during the course of the campaign: They fired rockets at densely populated areas in Israel; launched their rockets from within densely populated Palestinian areas in the Gaza Strip; and concealed arms in civilian facilities or surroundings. These actions obviously made it more difficult for the Israeli military to avoid harming Palestinians not taking part in the hostilities. Nonetheless, the military is obliged to observe all IHL stipulations. IHL is not based on the principle of reciprocity, so that even when one side violates it, the other side is not released from its obligation to abide by the law.<sup>37</sup>

Because the military refuses to provide real information about incidents in which Palestinians who did not take part in the hostilities were harmed, B'Tselem is unable to investigate the lawfulness of each and every military strike during the operation. In the vast majority of cases the target of the attack cannot be discovered and therefore, it cannot be determined whether the target was legitimate and, if so, whether the strike was proportional. Nonetheless, B'Tselem's investigations have found that, in some cases at least, the military violated IHL and in other cases there are substantial reasons to believe IHL was violated. Two chief aspects of the military's conduct reinforce these concerns:

**A. Lack of effective advance notice of an impending attack:**

The IDF Spokesperson's document presented above states that the "IDF also issues clear and explicit warnings prior to attacks insofar as circumstances permit, and in accordance with International Law." B'Tselem's investigation reveals that this statement is not quite accurate.

In many cases, B'Tselem has found that Palestinians who did not take part in the hostilities were killed and injured without having been given any prior warning that could have enabled them to take shelter. In some cases a warning was given. Yet, even then, residents were not always given sufficient time to leave their homes, and after the warning, it was not ascertained that the residents had indeed left. Some warnings were delivered by telephone, although in other cases the military decided to warn residents by firing a small missile at or near the target. Several Palestinians who gave testimony to B'Tselem said that only in hindsight did

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<sup>37</sup> Article 51(8) of Additional Protocol I to the Geneva Convention of 1977.

they understand that the missiles meant they should leave their homes. Warnings of this nature cannot be considered “clear and explicit,” as alleged in the IDF Spokesperson’s statement.

IHL requires that effective advance warning be given before carrying out an attack.<sup>38</sup> Warnings that are not clear to civilians or that are followed by insufficient time for leaving the premises cannot be considered effective. The law stipulates that the obligation to give such warnings applies only when circumstances permit. However, the commentary to this article explains that a party is permitted to refrain from warning only in exceptional cases, for example, in order not to lose the element of surprise of a particular attack.<sup>39</sup> It cannot possibly be said that each and every case in which warnings were not given was just such an exception, particularly in instances in which the only people killed were Palestinians who did not take part in the hostilities. Consequently, the military’s claim that it abided by the law with regard to warnings undermines the objective of the directive and renders it meaningless.

**B. Broad definition of what constitutes a “legitimate target”:**

IHL’s definition of legitimate targets is restrictive. It states that the only permissible targets are those that have an effective military contribution and that a successful strike against them will provide a clear military advantage to the attackers.<sup>40</sup> B’Tselem’s investigation shows that, in at least some cases, the Israeli military adopted too broad a definition of what constitutes a legitimate military target, thereby violating the provisions of the law.

First, in some of the incidents that B’Tselem investigated, local residents reported that Palestinians had launched rockets from a place near the site that would be attacked by the Israeli military several hours later, and that the Israeli strike was apparently in response to that rocket fire. However, a location from which rockets were fired does not automatically become a legitimate target that may be attacked at any time. This is especially true in view of the fact that the individuals who launch the missiles do not remain on site after the launching, as well as its being a residential area.

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<sup>38</sup> Ibid, Article 57(2)c.

<sup>39</sup> Commentary, Paragraph 2223.

<sup>40</sup> Article 52(2) of Protocol I.

A similar argument concerns attacks against the homes of senior members of Hamas, as some such homes were bombed during the campaign. These homes in and of themselves do not constitute legitimate targets, especially when they are home to relatives as well. Nevertheless, the ISA's summary of the operation, as posted on its website, states explicitly that the military attacked "targets that are symbols of the Hamas regime and are linked to the military activities of Hamas, including 30 houses of senior commanders of the military wing of Hamas, some of which also served to store arms and ammunition."

With regard to these two issues, the military chose a broad interpretation of the IHL's restrictive definition of what constitutes a "legitimate target". This interpretation is unreasonable and means possible harm to civilians who ought to be protected by this law.

This report and other incidents investigated by B'Tselem raise grave suspicions of misconduct. However, the means at B'Tselem's disposal are too limited to determine whether or not the Israeli military acted in accordance with the law. In order to reach reliable conclusions, additional information – which is exclusively in the hands of the military – is required. The military decided on an internal probe of these incidents, kept the details of the probe classified and made public only its decisions with regard to some of the incidents and its conclusion that the military acted properly.

However, in view of the distressing results of the operation and the many questions that remain unanswered, the internal military probe and the scant information published are inadequate. The relevant authorities must explain the greater number of Palestinian fatalities in the last four days of the operation in comparison to the first four days. The explanation must relate particularly to the fourfold increase in the number of fatalities among Palestinians who did not take part in the hostilities. In view of the military's pronouncements of "surgical" strikes based on technological capacities that enable great precision and of information as to the presence of uninvolved civilians at the target immediately prior to the attack – the difference in the number of fatalities gives rise to serious questions: Did the military, during the last four days of the operation, choose not to make use of these technological capabilities? Alternatively, did the military have accurate information and yet decide to authorize the attacks, despite the anticipated injury to uninvolved civilians?

# Appendix: IDF Response



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April 11<sup>th</sup>, 2013

Yael Stein

**B'Tselem**

(Fax: 02-6749111, Tel: 02-6735599)

**Subject: B'Tselem's Report in respect of Operation "Pillar of Defense"**

1. On 18.3.2013 our office received your enquiry relating to the subject matter above, which was sent to the Public Appeals Office of the IDF Spokespersons unit. Subsequently we also received a copy of the draft report that you are intending to publish in relation to the operation.
2. We wish to update you that more detailed information relating to the examination process into the events of the operation "Pillar of Defense" has been uploaded to the website of the MAG Corps. On this information page you will be able to find details relating to the investigations being undertaken by the IDF.
3. With regard to the list of events that were detailed in your letter, please find the relevant updates detailed below:
  - a. **The death of Ahmad Abu Alyan, on 15.11.2012 (our reference: 0096/13); the death of Ahmad Abu Nakira, on 18.11.2012 (our reference: 0113/13); the deaths of Jalal Nassar and his son, on 18.11.2012 (our reference 0099/13); the deaths of four people from the attack on the family house of Al-Shawah –** after examination of the relevant materials, there was no discovery of any suspicion of any criminal offense, or suspicion of the breach of the Laws of Armed Conflict, by the army. In light of the above, the MAG has ordered the closure of the files of complaint relating to these events.
  - b. **The death of Ayad Abu Khusah, on 18.11.2012 (our reference 0111/13) –** despite the efforts and resources allocated to examining the alleged event relating to the complaint there was no finding of any military attack undertaken by the IDF, that correspond to the details of the complaint. In light of the above, the MAG has ordered the closure of the file of complaint.
  - c. **The death of Samaher Qadih on 17.11.2012 (our reference: 0050/13); the deaths of the brothers of the Asa'ifan family, on 18.11.2012 (our reference: 0052/13); the deaths of Foad Hijazi and two of his children, on 19.11.2012 (our reference: 0089/13); the death of Talal Al-Asli and two of his children, on 21.11.2012 (our reference: 0095/13) –** the examination of these complaints have yet to be completed.
4. We request that a copy of this letter, together with its enclosures, should be included into the report that you plan to publish in relation to the operation "Pillar of Defense".

  
Ronen Hirsch, Lieutenant Colonel  
The Military Advocate for Operational Affairs

**THE EXAMINATION OF ALLEGED MISCONDUCT DURING OPERATION**  
**"PILLAR OF DEFENCE"**  
**-AN UPDATE**

April 11, 2012

1. Operation "Pillar of Defence" took place in the Gaza Strip, between 14<sup>th</sup> – 21<sup>st</sup> November, 2012.<sup>1</sup> Following the Operation, and as with previous IDF military operations, an examination of claims regarding alleged violations of the law by IDF forces was undertaken. This note provides an update as to the status of the examination process.
2. The examination of claims regarding alleged misconduct in the course of IDF operational activities, and in particular of claims alleging violations of the Law of Armed Conflict, is conducted by the military justice system, and is implemented in accordance with the Military Advocate General's investigation policy,<sup>2</sup> which was affirmed by Israel's Supreme Court.<sup>3</sup>
3. The process of examining claims regarding alleged misconduct in the course of Operation "Pillar of Defence" began immediately after the conclusion of the operation, under the guidance of the Military Advocate General (hereinafter: the MAG). The

<sup>1</sup> For analysis of various legal aspects of the Operation, see: Military Advocate General's Corps, *Operation "Pillar of Defence" 14-21 November 2012*, at <http://www.mag.idf.il/163-5398-en/patzar.aspx>. For further information regarding the Operation, see [www.idf.il/english](http://www.idf.il/english).

<sup>2</sup> For further information regarding the law-enforcement system in the IDF and the "investigation policy", see: Military Advocate General's Corps, *The Public Commission to Examine the Maritime Incident of 31 May 2010: Second Position Paper on behalf of the Military Advocate General's Corps 3-19* (December 2010) (Hebrew) – [http://www.mag.idf.il/sip\\_storage/FILES/9/949.pdf](http://www.mag.idf.il/sip_storage/FILES/9/949.pdf), and The State of Israel, *Gaza Operation Investigations: An Update* (January 2010), pp. 3-20 at [http://www.mag.idf.il/SIP\\_STORAGE/files/3/713.pdf](http://www.mag.idf.il/SIP_STORAGE/files/3/713.pdf)

<sup>3</sup> See: HCJ 9594/03 *B'Tselem and the Association for Civil Rights in Israel v. Military Advocate General, Takdin-Elyon* (3)2011, 3136 ("The declared policy of the respondent... upholds the appropriate standards according to the Israeli law and in accordance with international law obligations"), see also: HCJ 3297/07 *Adalah v. Attorney General, Takdin-Elyon* (4)2011, 4396. Similarly, the Public Commission to Examine the Maritime Incident of 31 May 2010 (the "Turkel Commission") recently determined that: "The examination and investigation mechanisms in Israel for complaints and claims of violations of international humanitarian law and the methods they practice generally comply with the obligations of the State of Israel under the rules of international law" (The Public Commission to Examine the Maritime Incident of 31 May 2010, Second Report - **The Turkel Commission: Israel's Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Laws of Armed Conflict According to International Law** (2013); the Turkel Commission's Report was submitted to the Prime Minister on 6/2/2013, and its conclusions and recommendations to make certain adjustments to Israel's current mechanisms for examining and investigating alleged violations of the law, as well as various policy changes, are currently being reviewed).

MAG Corps received and examined complaints alleging criminal offences. In addition, the IDF Chief of General Staff appointed a Special General Staff Commission, headed by Major-General Noam Tibon, and which included additional operations staff (hereinafter: the Commission). The Commission collected command investigations that were relevant to the incidents examined, as well as raw intelligence and operational materials (including visual documentation of the airstrikes, to the degree that such existed), and also conducted supplemental inquiries. All of the materials and findings were transferred to the Military Prosecution, which reviewed them in order to check whether suspicions arose regarding the commission of criminal offenses in any of the incidents reviewed.

4. The examination process related to incidents reported by IDF forces or regarding which a complaint had been received, as well as information obtained pursuant to proactive efforts to collect information regarding the circumstances of all incidents of alleged physical harm to uninvolved civilians, or civilian objects. In that context, claims made in reports from international organizations and NGOs were mapped out, and reports from the media (including the Palestinian media) and other Palestinian sources were reviewed. The examination process related to dozens of incidents (over 80) that gave rise to claims of alleged misconduct, or where it was claimed that uninvolved civilians had been killed, even if misconduct was not alleged.

5. It should be pointed out that the nature and scope of the incidents examined extended greatly beyond the requirements of Israeli national law, international law or the MAG's investigation policy. Such a wide scope of examination was possible due to the nature of the operation, which was primarily based on precision airstrikes (which are relatively highly documented, as opposed to ground operations), as well as the length of the Operation (only eight days).
6. The Commission worked intensively for approximately three months, and its factual examination was both extensive and thorough. With respect to the great majority of the incidents, the Commission was able to make factual findings regarding the circumstances of the incident. It should be noted that with respect to several other incidents, although the Commission ascertained the facts relating to IDF activities, it was unable to clearly determine the facts concerning the results of these activities. With respect to a small number of incidents, the Commission was unable to reach factual findings (either because the events alleged had not occurred, or because it was unable to find a connection between the claim and a particular IDF action).
7. The factual findings of the Commission, as well as all of the materials collected by it with respect to the incidents examined, were routinely transferred for review by the Military Prosecution, so that recommendations could be made to the MAG whether a suspicion of a criminal offense arose requiring a criminal investigation to be opened. These recommendations in respect of any incident examined were made after a thorough review of the command investigation, the complaint or NGO report which made reference to the incident (insofar as they referred to the incident) and other operational and intelligence materials. To date, the MAG has reviewed the factual findings, as far as they existed, with respect to approximately 65 incidents, and did not find a basis for opening a criminal investigation in those cases. It should be noted that with respect to incidents where the factual basis concerning the extent and identity of the casualties was lacking, the MAG's decision was made on the strict assumption that the reports submitted indeed reflected the true version of events. With respect to the other incidents (approximately 15 incidents), including the complaints which referred to the attacks on media installations in the Gaza Strip, the MAG ordered additional inquiries before making a decision. Decisions with respect to these incidents are expected to be made in the near future. It should be further noted that dozens of additional complaints were received by the MAG Corps in the past week, and they shall also be reviewed in the near future.
8. With respect to a number of incidents, the MAG has determined that there is indeed basis for the claim that as a result of IDF attacks, uninvolved civilians were killed or injured or civilian property was damaged, usually as unintended damage resulting from an attack against military targets, or alternatively from operational errors, where civilians were mistakenly identified as terrorist operatives. **This result, while regrettable, does not indicate a violation of the Law of Armed Conflict, and stems directly from actions of Palestinian terrorist organizations which have chosen to conduct their unlawful activities from within the civilian population.**
9. Specific notifications of the MAG's decisions concerning the incidents with respect to which complaints were made shall be sent to the complainants' representatives.
10. The information below relates to several incidents concerning which the MAG has made a decision, and which have received public attention:

- The incident involving the Al-Dalu family on November 18, 2012** – The examination revealed that the regrettable deaths of members of the Al-Dalu family were caused as a result of an attack aimed against a senior terrorist operative and several other terrorists that were responsible for launching many dozens of missile and rocket attacks against Israeli civilian population centers. The attack against the terrorists, who constituted a military target, was aimed to reduce the scope of missile and rocket launchings towards Israel. The Commission found that various precautions had been taken in order to reduce the possibility of collateral damage to uninvolved civilians in the course of the attack, including the choice of ammunition used, and that the operations staff had not foreseen that as a result of the attack, collateral damage would be caused to uninvolved civilians to the extent alleged. In light of these findings, the MAG found that the incident does not raise suspicion of the commission of a criminal offense, and that the unfortunate result occurred despite the efforts made to minimize the collateral damage to uninvolved civilians. As a result, the MAG decided that there was no basis to open a criminal investigation or to take any additional measures.
- The attack against the Al-Shawa residence on November 18, 2012** – The MAG reviewed the alleged casualties as a result of the attack against the Al-Shawa residence, and determined that the target of the attack was a high-ranking terrorist who was present in the building at that time. The attack was conducted in a manner that aimed to minimize to the degree possible the collateral damage to uninvolved civilians or civilian property, including through use of appropriate precision munitions. It was further determined that the operations staff had not anticipated that as a result of this attack, collateral damage would be caused to uninvolved civilians to the extent alleged. In light of these findings, the MAG determined that the incident does not raise suspicion of the commission of a criminal offense, and that the regrettable outcome occurred despite the efforts to minimize collateral damage to uninvolved civilians. As a result, the MAG decided that there was no basis to open a criminal investigation or to take any additional measures. This determination was made on the strict assumption that the reports submitted to the IDF indeed reflected the true version of events. However, in the course of the MAG's review considerable doubts arose as to whether all the alleged casualties were indeed a direct result of an IDF action.
- Damage to medical facilities** – The MAG has reviewed all of the complaints received with respect to the damage caused to various medical facilities in the Gaza Strip. With respect to some of the incidents, the MAG did not find any basis to support the claim that the alleged damage was indeed caused as a result of IDF activity, and it is possible that the source of the damage was rather Palestinian. With respect to cases where it was found that the damage to medical facilities was caused as a result of IDF activity, such as the incident in which damage was caused to the Jordanian Hospital operating in the Gaza Strip, the examination showed that such damage was not intentional, but was rather an unintentional result of attacks against terrorist targets or weapons in close proximity to these medical facilities. As a result, the MAG decided that there was no basis to open a criminal investigation or to take any additional measures.
- The death of the son of the journalist Jihad Al-Masharawi** – It was concluded that this death was not a result of an IDF action. Accordingly, the MAG decided that there was no basis for opening a criminal investigation or ordering any additional measures. More recent international publications noted that the child's death was most likely a result of a Palestinian-launched missile that fell within the Gaza Strip.

- **Claims regarding attacks against buildings that were not used for military purposes** - The examination process also related to attacks against buildings which were claimed not to be military targets, such as the football stadium in the Gaza Strip, the mosque in the Zeitun neighborhood and financial institutions. With respect to all of these attacks, the MAG found that they were lawful attacks aimed at military targets which had been located deliberately within civilian population. The attacks were aimed against military targets, such as launch sites, weapons storage places or terrorist command posts, and these attacks were expected to result in an effective military advantage to the IDF. Accordingly, the MAG found that there was no basis to open a criminal investigation or to order any additional measures.

11. In conclusion, it should be noted that from the specific incidents examined thus far, a general picture arises showing that the IDF forces involved in attacks carried out during Operation "Pillar of Defence" generally acted with utmost professionalism, and consistently implemented the Law of Armed Conflict (including the principles of distinction, proportionality and the requirement to provide precautionary measures prior to attack). A considerable emphasis was put on minimizing collateral damage to uninvolved civilians and civilian property, beyond the requirements of the Law of Armed Conflict. In a limited number of incidents, certain professional flaws were detected, but these did not amount to a suspicion of the commission of a criminal offense, and the professional lessons from these flaws are being learned.

The relatively small number of uninvolved civilian casualties from IDF attacks was a result, *inter alia*, of the implementation of well-established work processes with respect to the assessment of the targets for attack, the examination of the relevant intelligence, and the use of various precautions in order to minimize to the extent possible the collateral damage caused as a result of the attacks (including the choice of ammunition, the issuance of effective advance warnings when possible, and the timing of the attack). These processes are under constant review, and were significantly improved as a result of lessons learned following prior military operations. A review process is currently taking place in order to implement further improvements following the lessons learned from this most recent operation.



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