

UK LAWYERS FOR ISRAEL



ANALYSIS OF PUBLICATIONS BY AMNESTY INTERNATIONAL ON THE 2014 GAZA CONFLICT

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1. Communications and Publications by Amnesty International on the Gaza conflict of 2014 and the Context

1.1 This memorandum examines a series of communications and publications by Amnesty International on the Israel/Gaza conflict of 2014:

- Campaigning / money-raising emails and web pages¹
- Report “*Families under the rubble: Israeli attacks on inhabited homes*” (5 November 2014)² and its press release, *Israeli forces displayed ‘callous indifference’ in deadly attacks on family homes in Gaza*³
- Public Statement “*Evidence of medical workers and facilities being targeted by Israeli forces in Gaza*” (7 August 2014)⁴
- Report “*‘Nothing is Immune’ Israel’s Destruction of Landmark Buildings in Gaza*” (9 December 2014)⁵ and its press release “*Israel’s destruction of multistorey buildings: extensive, wanton and unjustified*”⁶
- “*The Gaza Platform: An interactive map of Israeli attacks during the 2014 Gaza conflict*” (8 July 2015)⁷, and related press releases⁸ and videos⁹

¹ <https://www.amnesty.org.uk/gaza-operation-protective-edge>;
<https://www.amnesty.org.in/action/detail/gaza-stop-the-arms-stop-the-killing>;
<http://www.amnestyusa.org/emails/W1407EAIAR1.html>

² MDE 15/032/2014 <https://www.amnesty.org/en/documents/mde15/032/2014/en/>

³ <https://www.amnesty.org/en/latest/news/2014/11/israeli-forces-displayed-callous-indifference-deadly-attacks-family-homes-gaza/>

⁴ MDE 15/023/2014 <https://www.amnesty.org/en/documents/mde15/023/2014/en/>

⁵ MDE 15/0029/2014 <https://www.amnesty.org/en/documents/mde15/0029/2014/en/>

⁶ <https://www.amnesty.org/en/latest/news/2014/12/israels-destruction-multistorey-buildings-extensive-wanton-and-unjustified/>

⁷ <https://gazaplatfom.amnesty.org/>

⁸ “*Launch of innovative digital tool to help expose patterns of Israeli violations in Gaza*”, 8 July 2015 00:01 UTC <https://www.amnesty.org/en/latest/news/2015/07/launch-of-innovative-digital-tool-gaza/>; “*Gaza: new digital mapping project reveals deadly pattern of Israeli attacks*” 8 July 2015, 12:00am <https://www.amnesty.org.uk/press-releases/gaza-new-digital-mapping-project-reveals-deadly-pattern-israeli-attacks>; “*The Gaza Platform: seeking justice for war crimes*” 8 July 2015 04:35pm <https://www.amnesty.org.uk/gaza-platform-seeking-justice-war-crimes>

⁹ “*CSI: Gaza - Forensic Architects*” 7 July 2015 <https://www.youtube.com/watch?v=ApVBZxOttIA>, also available on “*Launch of innovative digital tool to help expose patterns of Israeli violations in Gaza*”, <https://www.amnesty.org/en/latest/news/2015/07/launch-of-innovative-digital-tool-gaza/>; “*The Gaza conflict: key findings from our forensic architecture platform*”

<https://www.youtube.com/watch?v=DTvNIp8wXbw>, also available at “*The Gaza Platform: seeking justice for war crimes*” 8 July 2015 04:35pm <https://www.amnesty.org.uk/gaza-platform-seeking-justice-war-crimes>

- Report “*Black Friday: Carnage in Rafah during 2014 Israel/Gaza conflict*” (29 July 2015)¹⁰ and its press release: “*Gaza 'Black Friday': Cutting edge investigation points to Israeli war crimes in Rafah*”¹¹
- Report “*Unlawful and deadly: Rocket and mortar attacks by Palestinian armed groups during the 2014 Gaza/Israel conflict*” (26 March 2015)¹²
- Report “*Strangling Necks’ Abductions, torture and summary killings of Palestinians by Hamas forces during the 2014 Gaza/Israel conflict*” (27 May 2015)¹³

1.2 All of these publications, with the possible exception of some of the web pages, remain available on Amnesty International’s websites without correction or qualification.

1.3 Some of our analysis of these communications and publications refers to and relies on a report published in October 2015 by the High Level Military Group (HLMG), “*An Assessment of the 2014 Gaza Conflict*”.¹⁴ Appendix A contains information regarding the HLMG, their expertise and their report.

¹⁰ MDE 15/2146/2015 <https://blackfriday.amnesty.org/report.php>; <https://blackfriday.amnesty.org>

¹¹ 29 July 2015, 09:00 UTC <https://www.amnesty.org/en/latest/news/2015/07/gaza-cutting-edge-investigation-rafah/>

¹² MDE 21/1178/2015 <https://www.amnesty.org/en/documents/mde21/1178/2015/en/>

¹³ MDE 21/1643/2015 <https://www.amnesty.org/en/documents/mde21/1643/2015/en/>

¹⁴ <http://www.high-level-military-group.org/pdf/hlmg-assessment-2014-gaza-conflict.pdf>

2. Campaigning / Money Raising Emails and Web Pages

- 2.1 Amnesty International circulated a series of emails during July and August 2014 in order to further its campaign to stop arms exports to Israel.
- 2.2 A circular email from Amnesty International dated 18 July 2014¹⁵ emphasised the following text in a block at the top of the page:

“How many more children must die before we stop selling arms to Israel?”

“They were playing football when it happened. Four boys from the same family, all killed by Israeli navy shells as they played on Gaza City beach. This was not a one-off, freak accident. **Of the 237 Palestinians killed since Israeli air strikes began on 8 July, the majority have been civilians – many of them children.**

“Indiscriminate targeting of civilian areas is against international law. And yet countries including the UK are supplying weapons to Israel, knowing that they risk fuelling the current crisis. **This has to stop”**

- 2.3 A similar email was sent on 8 August 2014, emphasising the following text:¹⁶

“What will it take for the UK to stop arming Israel?”

“The horrific human toll of the violence has been mounting daily. Since the four little boys were killed by the IDF on Gaza City Beach, **hundreds more children have been killed.**

“Entire families have been wiped out. Schools and hospitals destroyed. Medics killed while trying to save lives.

“Indiscriminate attacks on civilians are against international law. **The UK could be facilitating war crimes if they continue to supply arms to Israel.**

¹⁵ Appendix B, pages 1-3;

http://webmail.amnesty.org.uk/interface/external_view_email.php?J917370273781640711934746372915

¹⁶ Appendix B, pages 30-32

“This must stop now.”

- 2.4 The same or similar language was also used in web pages posted by Amnesty International in support of this campaign, some of which remain available on the Internet.¹⁷
- 2.5 At this stage the circumstances of the death of the four boys and other casualties had not been investigated. Amnesty International was not in a position to say that the IDF had killed these boys indiscriminately or that hundreds more children had been killed indiscriminately.
- 2.6 Subsequently the Israeli Military Police Criminal Investigations Department (MPCID) made the following findings after interviewing and obtaining affidavits from Palestinian witnesses:¹⁸
- 2.6.1 The incident in which the four boys were killed took place in an area that had long been known as a compound belonging to Hamas’s Naval Police and Naval Force (naval commandos), which was utilized exclusively by militants and was known to the residents of the Gaza Strip as a compound used exclusively by Hamas’s Naval Police.
- 2.6.2 The compound in question spans the length of the breakwater of the Gaza City seashore, closed off by a fence and clearly separated from the beach serving the civilian population.
- 2.6.3 The IDF had carried out a number of attacks on the compound in the days prior to the incident, including one on the day before the incident which targeted a container located inside the compound that was used to store military supplies.

¹⁷ <https://www.amnesty.org.uk/gaza-operation-protective-edge>;
<https://www.amnesty.org.in/action/detail/gaza-stop-the-arms-stop-the-killing>;
<http://www.amnestyusa.org/emails/W1407EAIAR1.html>

¹⁸ *Decisions of the IDF Military Advocate General regarding Exceptional Incidents that Occurred during Operation ‘Protective Edge’ – Update No. 4* (11 June 2015) item 7 <http://www.law.idf.il/163-7353-en/Patzar.aspx>

- 2.6.4 The IDF received intelligence shortly before the incident that operatives of Hamas's Naval Forces would gather in the compound to prepare for military activity against the IDF.
- 2.6.5 Aerial surveillance identified a number of figures running into the compound and entering a shed adjoining the container that had been attacked the previous day. They were not identified as children and in the circumstances it was impossible to identify them as children from aerial surveillance.
- 2.6.6 Believing the figures to be members of Hamas's Naval Forces preparing to execute military activity, the IDF fired a missile towards the container and shed, apparently hitting one of the figures. The other three ran towards the exit and the IDF fired a further missile at them which hit them after they exited the compound.
- 2.7 Amnesty International claimed that the boys were playing football on a public beach – in fact they were in a Hamas military compound. Amnesty International implied that the IDF killed the boys indiscriminately – in fact the IDF were not aware that they were children and had good reason to believe that they were terrorists preparing for military action. Amnesty International implied that the death of these four boys was the tip of the iceberg of indiscriminate killing of children by the IDF. In fact, the IDF does not kill civilians or children indiscriminately and takes all measures possible to prevent such killing in the context of a war against an enemy operating largely from urban areas.
- 2.8 The HLMG examined the precautions taken by the IDF to avoid civilian casualties and other collateral damage, and concluded:
- “Given the challenging complexity of the battlefield in the conflict, Israel instituted a highly sophisticated multi-layered system of precautions in conducting its operation, constituted of field intelligence, appropriate legal consideration, military tactics and practices, overseen by highly effective and responsive command and control capabilities.

“Israel’s precautionary effort thus rests on a wide variety of inputs and checks and balances. The HLMG was able to question and discuss the related practices and protocols of the IDF with a range of military personnel, from junior to the most senior ranks. The system of precautions described to avoid collateral damage is exemplary, built on an extensive multi-input picture of tactical expertise, legal checks and balances, intelligence, training, command and control and military ethos.”¹⁹

¹⁹ HLMG, op. cit., paras. 89-90

3 Report “Families under the rubble: Israeli attacks on inhabited homes”²⁰ and Press Release: “Israeli forces displayed ‘callous indifference’ in deadly attacks on family homes in Gaza”²¹

3.1 Amnesty International states that this report is about

“targeted Israeli attacks carried out on inhabited civilian homes in the light of Israel’s obligations under international humanitarian law, specifically the rules on the conduct of hostilities”

and alleges that

“there was a failure to take necessary precautions to avoid excessive harm to civilians and civilian property, as required by international humanitarian law”²².

3.2 Amnesty International’s press release about this document goes further, with a claim by Philip Luther, Director of the Middle East and North Africa Programme, that

“Israeli forces have brazenly flouted the laws of war by carrying out a series of attacks on civilian homes, displaying callous indifference to the carnage caused.”²³

3.3 However, it is apparent that Amnesty International has no proper basis for these serious allegations. As it admitted:

“Amnesty International has been unable to send a delegation of researchers to visit the Gaza Strip since the beginning of the conflict. ... Amnesty International has consequently had to carry out research remotely, supported by two fieldworkers based in Gaza who were contracted to work with the

²⁰ 5 November 2014, MDE 15/032/2014 <https://www.amnesty.org/en/documents/mde15/032/2014/en/>

²¹ <https://www.amnesty.org/en/latest/news/2014/11/israeli-forces-displayed-callous-indifference-deadly-attacks-family-homes-gaza/>

²² “Families under the rubble: Israeli attacks on inhabited homes” MDE 15/032/2014 <https://www.amnesty.org/en/documents/mde15/032/2014/en/> page 5

²³ Press Release “Israeli forces displayed ‘callous indifference’ in deadly attacks on family homes in Gaza”

organization for periods of several weeks ... interviewing victims and eyewitnesses of every case recorded and taking photos and videos of the sites. The organization consulted on the interpretation of photos and videos with military experts. It extensively reviewed relevant statements by the Israeli military and other official bodies, but they provide no indication as to whether any of the attacks in this report were directed at a particular military target. ... Despite these efforts, the lack of access for Amnesty International’s researchers, as well as military and medical experts who would have accompanied them, has clearly hindered the work of Amnesty International”²⁴

3.4 Neither the fieldworkers nor the “military experts” consulted by Amnesty International are identified.

3.5 Carrying out research remotely via two local fieldworkers who interviewed “eyewitnesses and victims” allows for potential abuse, especially in territory under the control of a terrorist group such as Hamas. This is confirmed by Donatella Rovera, herself a highly experienced Amnesty International field investigator:²⁵:

“Especially in the initial stages of armed conflicts, civilians are confronted with wholly unfamiliar realities – armed clashes, artillery strikes, aerial bombardments, and other military activities and situations they have never experienced before – which can make it very difficult for them to accurately describe specific incidents. In Gaza, Lebanon, Libya, Syria, and other places I interviewed civilians who described what they thought were artillery or bomb strikes being launched by far away government forces and striking near their homes – whereas in reality the loud bangs and tremors were caused by

²⁴ “*Families under the rubble: Israeli attacks on inhabited homes*” MDE 15/032/2014 <https://www.amnesty.org/en/documents/mde15/032/2014/en/> pages 6-7

²⁵ “*Challenges of monitoring, reporting, and fact-finding during and after armed conflict*”, Professionals in Humanitarian Assistance and Protection, 28 April 2014 <https://phap.org/thematic-notes/2014/april/challenges-monitoring-reporting-and-fact-finding-during-and-after-armed-co>. As noted at the end of the article, Ms Rovera has been leading Amnesty International’s field investigations into violations of international humanitarian and human rights law by state and non-state actors for the past 20 years in many situations of internal and international armed conflicts, including Syria, Somalia, Sudan-South Sudan, Libya, Israel-Palestinian Territories, Ivory Coast, Israel-Lebanon and Algeria.

mortars or rockets being launched by opposition fighters from their positions nearby. For the untrained ear it is virtually impossible to distinguish between incoming and outgoing fire, and all the more so for those who find themselves close to the frontlines...

“Conflict situations create highly politicized and polarized environments, which may affect even individuals and organizations with a proven track record of credible and objective work. Players and interested parties go to extraordinary lengths to manipulate or manufacture “evidence” for both internal and external consumption. A recent, though by no means the only, example is provided by the Syrian conflict in what is often referred to as the “YouTube war,” with a myriad techniques employed to manipulate video footage of incidents which occurred at other times in other places – including in other countries – and present them as “proof” of atrocities committed by one or the other parties to the conflict in Syria. At times the same video clips have even been distributed by partisans of opposing factions, each ascribing the atrocities to their opponents.

“Even if they disregard it, investigators must be alert to the fact that disinformation and misinformation can contribute to shaping the perception of events, the narrative surrounding the events, and the behaviour of people who take it in good faith and internalize it, including victims, witnesses, and others potential sources. In the early stages of the conflict in Libya, misinformation spread about vast numbers of African mercenaries committing atrocities on behalf of government forces and mass rape of women as a weapon of war. The allegations, initially believed and relayed by some investigators, have never been substantiated by subsequent investigations, but during the conflict they deeply affected the perception of events in parts of the country...

“Fear can lead victims and witnesses to withhold evidence or give deliberately erroneous accounts of incidents. In Gaza, I received partial or inaccurate information by relatives of civilians accidentally killed in accidental explosions or by rockets launched by Palestinian armed groups towards Israel

that had malfunctioned and of civilians killed by Israeli strikes on nearby Palestinian armed groups' positions. When confronted with other evidence obtained separately, some said they feared reprisals by the armed groups..."

3.6 Furthermore, Amnesty International had no information as to what was targeted by the IDF and why it was targeted. As the HLMG observed:

"the legality of military action has to be measured on the full spectrum of contextual understanding existent at the time of decision making, on whether a commander made a reasonable judgement based on this information. It cannot be judged retrospectively, on effect. Specifically, this means that it is not possible to discern whether specific actions or military campaigns were compliant with LOAC or not on the basis of television images of destruction, casualty figures (even where these can be verified as accurate and appropriately classified between combatants and civilians) and assertions made on the basis of an incomplete picture of the military context to an action."²⁶

3.7 Amnesty International must have been aware of these problems, yet chose to make serious, unqualified and inflammatory allegations that "Israeli forces have brazenly flouted the laws of war ... displaying callous indifference to the carnage caused".

3.8 While Amnesty International selectively emphasises various principles and provisions of International Humanitarian Law, it ignores the fundamental principle reiterated in Article 67(1)(i) of the Rome Statute of the International Criminal Court²⁷: the entitlement of the accused

"not to have imposed on him or her any reversal of the burden of proof or any onus of rebuttal".

3.9 Instead, for Amnesty International,

²⁶ HLMG, op. cit., para. 69

²⁷ <https://www.icc-cpi.int/NR/rdonlyres/ADD16852-AEE9-4757-ABE7-9CDC7CF02886/283503/RomeStatutEng1.pdf>

“The onus is on the Israeli government to explain what the intended target was in each of these attacks, in what way the target was a lawful military objective, what the means and methods of attack used were and why they were selected.”²⁸

Amnesty International regards the absence of such explicit information as justifying unqualified allegations of heinous crimes. Amnesty International is oblivious to the dangers for Israel of exposing intelligence sources²⁹ and revealing military information that might assist an enemy seeking its destruction, or even the need for a prosecutor to abstain from compromising due process by commenting publicly on a matter under investigation.

3.10 Amnesty International stated in this report that it had not received a response from the Israeli authorities to its questions before the report was finalized, “but any response received will be reflected in future publications”³⁰. The IDF Military Advocate General (MAG) has since published detailed information about two of the eight incidents covered in the Amnesty International report and his findings that in these cases there did not exist grounds for reasonable suspicion of criminal misconduct.³¹ The MAG has also stated that he has ordered a criminal investigation into another of the eight incidents.³² Amnesty International is aware of this information, but has not reflected it in subsequent publications³³ and does not even mention it on the web pages where it continues to provide this report and press release. This calls into question Amnesty International’s good faith.

3.11 Amnesty International’s methodology is not consistent with internationally-

²⁸ “Families under the rubble: Israeli attacks on inhabited homes” MDE 15/032/2014 <https://www.amnesty.org/en/documents/mde15/032/2014/en/> page 42

²⁹ By contrast, Amnesty International invokes the need to protect its sources when refusing to share the evidence on which it claims to have based its conclusions: see Appendix B page 119

³⁰ “Families under the rubble: Israeli attacks on inhabited homes” MDE 15/032/2014 <https://www.amnesty.org/en/documents/mde15/032/2014/en/> page 7

³¹ *Decisions of the IDF Military Advocate General regarding Exceptional Incidents that Occurred during Operation ‘Protective Edge’ – Update No. 3* (22 March 2015) <http://www.law.idf.il/163-7183-en/Patzar.aspx?pos=7>, *Cases Closed by the MAG*, items 6 and 7 (House of Al-Bakri family, Gaza City, 4 August 2014; Abu Dahrouj family, Al-Zuwayda, 23 August 2014)

³² *Ibid*, criminal investigations, item 5 (Abu-Jama House, Khan Yunis)

³³ Amnesty International mentions the closure of the two investigations in a section of its report entitled “‘Black Friday’: Carnage in Rafah”, 29 July 2015, <https://blackfriday.amnesty.org/investigations.php> - tab “Investigations” but does not report or address the specific findings of the MAG.

agreed best practice standards for human rights fact-finding, as reflected in the Lund-London Guidelines of the Raoul Wallenberg Institute and the International Bar Association.³⁴ These state, for example:

“70. In making its factual and legal findings, the delegation must follow a standard of proof in a consistent manner to ensure the credibility of the findings. Regardless of variations in the expressions used (such as “balance of probabilities” or “clear and convincing evidence”) the standard of proof should support the delegation’s reasonable belief that certain facts happened. If the standard of proof is not reached for certain allegations or incidents, this must be reflected in the delegation’s report, either by excluding them or by indicating that further investigation is required. Conversely, if the standard of proof is exceeded, the delegation may use an expression to convey that conviction, such as ‘overwhelming evidence’.

“71. In applying a standard of proof, the delegation must gather sufficient information from various credible sources to meet this standard and assess the reliability of the information collected.

“74. In order to enhance the overall quality and credibility of the report, the language used must be accurate, clear and drafted in a dispassionate tone to reflect the facts objectively and so that the processes of the mission are transparent. The report should fairly reflect all the information gathered and must refrain from bias. It is good practice to identify the standards against which the delegation members weigh the information obtained. Hearsay evidence must be clearly distinguished from direct evidence or information.

“75. As good practice, reports should include:

- iv) the names of the delegation members, including brief particulars as to their relevant expertise and experience, to assure transparency;

³⁴ *Guidelines on International Human Rights Fact-Finding Visits and Reports of Non-Governmental Organisations* (2009) http://www.ibanet.org/Fact_Finding_Guidelines.aspx

- vi) sufficient background information to enable readers to contextualise the evidence;
- vii) the methodology used during the visit, especially regarding interviews;
- viii) as appropriate and where safety and confidentiality would not be compromised, a list of the sites visited, and organisations and categories of people interviewed;
- ix) identification of any other sources of information relied upon, including disclosure of unverified third party evidence ... ;
- x) disclosure of the source of funding for the mission, unless this would be contrary to any agreement between the NGO and the donor or would otherwise compromise the safety or confidentiality of any person associated with the mission; ...
- xii) where applicable, complementary secondary sources should be identified as such;
- xiii) identification of any circumstances relevant to the mission, including anything that impeded it; ...
- xv) an acknowledgment of any contributions by people or organisations who rendered assistance to the delegation or NGO, where it would not compromise their safety; ... and
- xvii) details of any significant developments occurring after the conclusion of the mission.”

3.12 In contrast to this best practice, Amnesty International did not apply a consistent or any standard of proof; did not gather information from credible sources; did not assess the reliability of the information collected; did not use accurate, clear and dispassionate language in its report; did not refrain from bias; did not distinguish hearsay from direct evidence; did not identify the researchers or the “experts” consulted; did not provide sufficient background for readers to contextualize the “evidence”; did not disclose the interview methodology used,

the unverified third party evidence relied on, or the significant impediment caused by intimidation of witnesses in Gaza; and has not disclosed the source of funding.

4. **Public Statement “Evidence of medical workers and facilities being targeted by Israeli forces in Gaza”³⁵**

4.1. According to this public statement

“Testimonies from doctors, nurses, and ambulance workers who have spoken to Amnesty International paint a disturbing picture of hospitals and health professionals coming under attack by the Israeli army in the Gaza Strip, where at least six medics have been killed.”³⁶

The statement contains several heart-rending accounts from those caught in the cross-fire and ignores the possibility that any of the fire might be from Palestinians. Instead, Amnesty International assumes that all of the firing was from the IDF and that Israel, and only Israel, is to blame.

4.2. In some of the cases covered in this statement, the witnesses as quoted by Amnesty International did not identify the source of the fire. In other cases the witnesses did accuse Israel. However, as observed by Donatella Rovera, based on her extensive experience as a fieldworker in armed conflicts, even where witnesses believed or said that the fire was Israeli, this was not necessarily correct.³⁷ Subsequent investigations by the IDF MAG identified evidence or reason to believe that in two such cases the fire came from Palestinians,³⁸ and this may well have been the position in other cases mentioned in this statement.

4.3. Amnesty International also played down the evidence that Palestinian terrorists were using medical facilities for military purposes. It said that it “has not been able to confirm any of these reports”³⁹ – a consideration which has not stopped it making unqualified allegations against Israel.⁴⁰ By contrast, the HLMG observed:

³⁵ 7 August 2014, MDE 15/023/2014 <https://www.amnesty.org/en/documents/mde15/023/2014/en/>

³⁶ Page 1

³⁷ See para 3.5 above.

³⁸ *Decisions of the IDF Military Advocate General regarding Exceptional Incidents that Occurred during Operation ‘Protective Edge’ – Update No. 2* (7 December 2014) <http://www.mag.idf.il/163-6958-en/Patzar.aspx?pos=17>, *Cases Closed by the MAG*, item 6 (Ambulance, Bet Hanoun, 22 July 2014), item 8 (Al Shifa Hospital and Park in the Shati Camp, 28 July 2014)

³⁹ “Evidence of medical workers and facilities being targeted by Israeli forces in Gaza” 7 August 2014, MDE 15/023/2014 <https://www.amnesty.org/en/documents/mde15/023/2014/en/> page 1

⁴⁰ This disparity is inconsistent with para. 70 of the Lund-London Guidelines: see para 3.11 above.

“Moreover, Hamas made extensive use of sensitive sites to shelter its command and control functions, including placing its operational headquarters in the Al-Shifa hospital, Gaza’s main medical facility. The UN Secretary General’s Board of Inquiry report also confirmed the placement of Hamas weapons in UN facilities, with Secretary General Ban Ki-moon expressing dismay that ‘Palestinian militant groups would put United Nations schools at risk by using them to hide their arms’. Further, the inquiry also accepted that armed Palestinians groups fired weapons from UN-run schools, where it declared security to be weak. Hamas used ambulances to ferry fighters, mosques to store equipment, and civilian homes to conceal weaponry and tunnel entrances, often also disguising its fighters in civilian clothes. As such, Hamas’s conduct prior and during the hostilities was in deliberate disregard of the stipulations of LOAC. ... Indeed, violating of the LOAC was an obvious matter of tactical and strategic calculation in Hamas’s conduct of the war.”⁴¹

“Hamas also exploited medical facilities during the conflict in another grave violation of LOAC. It turned the al-Shifa hospital, Gaza City’s main hospital, into its operational headquarters and made heavy use of al-Wafa hospital in Shejaiya, transforming it into a military asset of significant impact - from firing positions and weapons storage to surveillance and tunnel infrastructure. Hamas further used ambulances to ferry fighters in a bid to avoid IDF fire, while its commanders often hid in hospitals, including the al-Nasser hospital in Khan Yunis and al-Najjar hospital in Rafah.”⁴²

- 4.4. Several examples of eye witness evidence from Palestinians of misuse of medical facilities by Hamas were published by the Israeli Ministry of Foreign Affairs on 24 August 2014.⁴³ Numerous examples of such misuse by Hamas or other terrorist factions were provided in a detailed report published by that Ministry in May

⁴¹ HLMG, op. cit., para. 107

⁴² Ibid, para. 131

⁴³ <http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Pages/Hamas-exploitation-of-civilian-and-medical-facilities-for-terror-24-Aug-2014.aspx>

2015.⁴⁴ Investigations by the IDF MAG also identified cases where Palestinian terrorists used medical facilities for military purposes or operated in close proximity to medical facilities.⁴⁵

- 4.5. In ignoring the evidence of misuse of medical facilities by Hamas and other Palestinian terrorist organisations, Amnesty International on the one hand failed to provide a significant part of the context and possible justification for some IDF actions; and, on the other hand, absolved Hamas and other Palestinian groups of any blame for their violations and the resulting casualties.

⁴⁴ “*The 2014 Gaza Conflict – Factual and Legal Aspects*”, Israel Ministry of Foreign Affairs, May 2015, <http://mfa.gov.il/ProtectiveEdge/Documents/2014GazaConflictFullReport.pdf> paras. 129-132

⁴⁵ *Decisions of the IDF Military Advocate General regarding Exceptional Incidents that Occurred during Operation ‘Protective Edge’ – Update No. 2* (7 December 2014) <http://www.mag.idf.il/163-6958-en/Patzar.aspx?pos=17>, *Cases Closed by the MAG*, item 4 (Red Crescent Station, Jabalya, 9 July 2014), item 5 (Alhambra Association, Bet Lahia, 12 July 2014), item 7 (Al Wafa Hospital, 11-23 July 2014).

5. **Report “‘Nothing is Immune’ Israel’s Destruction of Landmark Buildings in Gaza”⁴⁶ and Press Release “Israel’s destruction of multistorey buildings: extensive, wanton and unjustified”⁴⁷**

5.1 This Report relates to Israeli attacks on four buildings in the Gaza Strip which Amnesty International describes as “landmark buildings”. The Report states:⁴⁸

“This briefing focuses exclusively on these attacks and considers whether they were militarily justified. It concludes, on the basis of Amnesty International’s research to date, that the destruction was extensive and appeared to have been wanton and not justified by military necessity.”

5.2 The title of the Press Release similarly alleges that the destruction of these buildings was “extensive, wanton and unjustified”. The Press Release goes on to quote Philip Luther, Director of the Middle East and North Africa Programme at Amnesty International, as saying:

“All the evidence we have shows this large-scale destruction was carried out deliberately and with no military justification”.

5.3 As in the case of the Report “*Families under the rubble: Israeli attacks on inhabited homes*” discussed in section 3 above, Amnesty International has no proper basis for these serious allegations. Both reports are based on research by two fieldworkers based in the Gaza Strip who interviewed alleged victims and eye-witnesses. As discussed in paragraph 3.5 above, such evidence is unreliable.

5.4 Furthermore Amnesty International did not have the essential information as to why the buildings were targeted by the IDF and why it adopted the means and methods used. Amnesty International claims that the onus is on the IDF to provide this information and that in the absence of such information it is right to assume

⁴⁶ 9 December 2014, MDE 15/0029/2014; <https://www.amnesty.org/en/documents/mde15/0029/2014/en/>

⁴⁷ 9 December 2014, <https://www.amnesty.org/en/latest/news/2014/12/israels-destruction-multistorey-buildings-extensive-wanton-and-unjustified/>

⁴⁸ “‘Nothing is Immune’ Israel’s Destruction of Landmark Buildings in Gaza” 9 December 2014, MDE 15/0029/2014; <https://www.amnesty.org/en/documents/mde15/0029/2014/en/> page 6

that there was no justification.⁴⁹ As explained in section 3 above, this approach is contrary to both the fundamental principle that a person is innocent until proven guilty and the need to avoid exposing intelligence sources or revealing military information that might assist an enemy which seeks Israel's destruction.⁵⁰

5.5 Amnesty International also claims that its allegations are supported by statements made by Israeli security officials.⁵¹ However the alleged statements quoted in Amnesty International's report provide no such support. They merely said that buildings that were being used to assist the firing of rockets at Israel or other terrorist or military activities or as Hamas operational centres would be targeted, subject to the approval of IDF lawyers and warnings to the local population.⁵² Effective warnings were indeed given in the four cases described by Amnesty International and there were no fatalities. The statements relied on by Amnesty International do not substantiate its allegations of "extensive, wanton and unjustified" destruction.

5.6 The propensity of Amnesty International to accuse Israel of war crimes unless proven innocent contrasts markedly with its unwillingness to accuse Hamas where it has not been able to confirm reports of war crimes on the part of Hamas.⁵³

5.7 Amnesty International also provides a very partial account of the context of these strikes. It points out that there was an agreed ceasefire on 26 August 2014 shortly after these strikes on 23, 25 and 26 August. However, it omits to mention that Hamas had rejected or broken numerous ceasefires before eventually accepting and generally complying with the final ceasefire on 26 August on terms practically identical to those proposed by Egypt and accepted by Israel on 15 July 2014.⁵⁴

5.8 These circumstances might indicate that these strikes, together with other IDF actions in the same period, achieved military objectives that caused Hamas to

⁴⁹ Ibid, page 24

⁵⁰ Paras. 3.6 - 3.9 above

⁵¹ "'Nothing is Immune' Israel's Destruction of Landmark Buildings in Gaza" 9 December 2014, MDE 15/0029/2014; <https://www.amnesty.org/en/documents/mde15/0029/2014/en/>, page 5

⁵² Ibid, page 8

⁵³ See para. 4.3 above

⁵⁴ HLMG, op. cit., paras 134-136

accept and generally comply with the final ceasefire. It appears that this context was omitted because it might indicate that the IDF's actions were justified. Despite claiming that "all the evidence we have" shows that there was no military justification for the strikes, Amnesty International omits relevant facts. Amnesty International's whole approach is biased and lacking in integrity.

6. The “Gaza Platform”, Press Releases and Videos

Introduction

- 6.1. The “Gaza Platform”⁵⁵ is a database made available through Amnesty International’s website. It is the subject of at least three Amnesty International press releases,⁵⁶ a short promotional video⁵⁷ and a longer video.⁵⁸ The Gaza Platform was used to prepare a further report, ““Black Friday’: Carnage in Rafah”⁵⁹, which is also the subject of press releases⁶⁰ and a video⁶¹. “The Gaza Platform” is discussed in this section and the report relating to Rafah is discussed in the next section of this memorandum.
- 6.2. Amnesty International’s press release for the launch of the Gaza Platform is entitled “*Launch of innovative digital tool to help expose patterns of Israeli violations in Gaza*”⁶² - thus revealing its preoccupation with showing that Israel committed systematic war crimes.

Amnesty International’s collaborators

- 6.3. The Gaza Platform is a collaboration between Amnesty International and Forensic Architecture. Forensic Architecture describes itself as a research agency based at

⁵⁵ <https://gazaplatfrom.amnesty.org/>

⁵⁶ “*Launch of innovative digital tool to help expose patterns of Israeli violations in Gaza*”, 8 July 2015 00:01 UTC <https://www.amnesty.org/en/latest/news/2015/07/launch-of-innovative-digital-tool-gaza/>; “*Gaza: new digital mapping project reveals deadly pattern of Israeli attacks*” 8 July 2015, 12:00am <https://www.amnesty.org.uk/press-releases/gaza-new-digital-mapping-project-reveals-deadly-pattern-israeli-attacks>; “*The Gaza Platform: seeking justice for war crimes*” 8 July 2015 04:35pm <https://www.amnesty.org.uk/gaza-platform-seeking-justice-war-crimes>

⁵⁷ “*CSI: Gaza - Forensic Architects*” 7 July, 2015 <https://www.youtube.com/watch?v=ApVBZxQttIA>, also available on “*Launch of innovative digital tool to help expose patterns of Israeli violations in Gaza*”, <https://www.amnesty.org/en/latest/news/2015/07/launch-of-innovative-digital-tool-gaza/>

⁵⁸ “*The Gaza conflict: key findings from our forensic architecture platform*” <https://www.youtube.com/watch?v=DTvNlp8wXbw>, also available at “*The Gaza Platform: seeking justice for war crimes*” 8 July 2015 04:35pm <https://www.amnesty.org.uk/gaza-platform-seeking-justice-war-crimes>

⁵⁹ <https://blackfriday.amnesty.org/report.php>

⁶⁰ “*Gaza ‘Black Friday’: Cutting edge investigation points to Israeli war crimes in Rafah*” 29 July 2015, 09:00 UTC <https://www.amnesty.org/en/latest/news/2015/07/gaza-cutting-edge-investigation-rafah/>; “*Executive Summary of ‘Black Friday’ Carnage in Rafah during 2014 Israel/Gaza Conflict*” 29 July 2015 MDE 1521462015 <https://www.amnesty.org/en/documents/mde15/2146/2015/en/>

⁶¹ “*Black Friday: Carnage in Rafah*”, 31 July 2015, 11:21 UTC <https://www.amnesty.org/en/latest/news/2015/07/black-friday-video/>

⁶² <https://www.amnesty.org/en/latest/news/2015/07/launch-of-innovative-digital-tool-gaza>

Goldsmiths, University of London, which provides evidence for international prosecution teams, political organisations, NGOs and the United Nations in various processes worldwide.⁶³ However, a large proportion of its work has targeted Israel, and its “Principal Investigator”, Eyal Weizman, is an architect and activist who supports boycotts and sanctions against Israel.⁶⁴ Amnesty International must have known that analysis provided by a team led by Mr Weizman was unlikely to be objective. Indeed the whole team at Forensic Architecture has been shown to be “biased as hell”⁶⁵.

6.4. The Gaza Platform website describes the project as follows:⁶⁶

“The Gaza Platform is an interactive map of attacks by Israeli forces on Gaza between 8 July and 26 August 2014. It enables its users to explore a vast collection of data, collected on the ground by the Al Mezan Centre for Human Rights and the Palestinian Centre for Human Rights (PCHR), as well as Amnesty International, during and after the conflict.”

According to the database as accessed on 4 May 2016, Al Mezan provided data on 1586 events included on the Platform, PCHR on 1747 events, and Amnesty International on 15 events.⁶⁷ Thus almost all of the data was provided by Al Mezan and PCHR.

6.5. Al Mezan and PCHR are partisan organisations opposed to Israel. Both organisations label Israel’s policies as “apartheid”, “ethnic cleansing”, and “war crimes”; and al-Mezan promotes the Palestinian “right of return” which amounts to the elimination of Israel.⁶⁸ Inflated figures of civilian casualties provided by these organisations and subsequently shown to be false misled Judge Goldstone,

⁶³ <http://www.forensic-architecture.org/>

⁶⁴ <http://www.pacbi.org/etemplate.php?id=917>; <http://apjp.org/israeli-architect-defends-riba/2014/4/10/israeli-architect-defends-ribas-motion-to-suspend-iaua.html>

⁶⁵ <http://elderofziyon.blogspot.com/2015/07/amnesty-international-and-forensic.html>

⁶⁶ <https://gazapatform.amnesty.org/>, tab “About - Project”

⁶⁷ This information can be found by applying the filter “Sources of Data”

⁶⁸ NGO Monitor on Al Mezan: http://www.ngo-monitor.org/article/al_mezan_center_for_human_rights
NGO Monitor on PCHR: http://www.ngo-monitor.org/article/palestinian_center_for_human_rights_pchr

as he admitted when he retracted the main allegations in his report on the hostilities in Gaza in 2009.⁶⁹

- 6.6. Amnesty International must have known that its almost total reliance on information provided by these organisations would be liable to produce inaccurate data and to result in erroneous and biased conclusions.

Selection of data

- 6.7. The Gaza Platform website says that it is

“the most comprehensive public repository of information about attacks carried out during the 2014 Gaza conflict to date..... As a digital interface, it enables access not only to text reports but also to photos, videos, audio recordings and satellite imagery documenting the war – all in one place.”

It also claims that it

“is a tool aimed at uncovering the truth about the attacks on Gaza and contributing to accountability efforts for crimes under international law committed by both sides during the 2014 conflict”

and that it

“will be updated as more information becomes available”⁷⁰

- 6.8. Contrary to these statements, even the evidence collected by Amnesty International itself on war crimes by Palestinian armed groups⁷¹ does not feature on the Platform.⁷² Nor has Amnesty International included information from the

⁶⁹ Lenny Ben-David, “*Gazan Casualties: How Many and Who They Were*” Jerusalem Center for Public Affairs, 2015 <http://jcpa.org/casualties-gaza-war/#sthash.KvyEUG6n.dpuf>; HLMG, op. cit., para. 151

⁷⁰ <https://gazapatform.amnesty.org/>, tab “About - Project”

⁷¹ “*Unlawful and deadly: Rocket and mortar attacks by Palestinian armed groups during the 2014 Gaza/Israel conflict*” March 2015 MDE 21/1178/2015 <https://www.amnesty.org/en/documents/mde21/1178/2015/en/> and “*‘Strangling Necks’ Abductions, torture and summary killings of Palestinians by Hamas forces during the 2014 Gaza/Israel conflict*” 27 May 2015, MDE 21/1643/2015 <https://www.amnesty.org/en/documents/mde21/1643/2015/en/>, both discussed in section 8 below.

⁷² <https://gazapatform.amnesty.org/>, tab “About – Methodology”

Israeli Government's report on the conflict of May 2015.⁷³ This contained detailed information on the war crimes perpetrated by Hamas and other terrorist organisations during the operation and their threats to Israel's citizens, as well as on the IDF's conduct, including explanations of the steps taken by the IDF in accordance with international law to minimize harm to civilians. Amnesty International also omitted information published by the IDF Military Advocate General (MAG) following investigations which indicated that a number of incidents alleged by Amnesty International to be war crimes were in fact legal under Israeli and International law.⁷⁴

6.9. Amnesty International claims in its press release "*The Gaza Platform: seeking justice for war crimes*"⁷⁵ that

"The Gaza Platform aims to uncover the truth about the attacks and serve as evidence of war crimes".

The same press release displays a tweet from Amnesty International's Crisis Campaigns Manager, Kristyan Benedict which says:

"Israel's killing of the Bakr boys on the beach in Gaza documeted [sic] on the #GazaPlatform gazaplatfom.amnesty.org/#968"

This tweet provides a link to the entry for the incident on the Gaza Platform⁷⁶ which contains inconsistent accounts of PCHR and Al Mezan alleging that a missile or missiles was/were fired by the IDF at Palestinian children when they were playing at Gaza beach. But the findings made following the Israeli investigation, summarized in paragraph 2.6 above, are not included. Thus, far

⁷³ "*The 2014 Gaza Conflict: Factual and Legal Aspects*" <http://protectiveedge.gov.il>

⁷⁴ *Decisions of the IDF Military Advocate General regarding Exceptional Incidents that Occurred during Operation 'Protective Edge' - Update No. 2* (7 December 2014) <http://www.law.idf.il/163-6958-en/Patzar.aspx?pos=17>, *Update No. 3* (22 March 2015) <http://www.law.idf.il/163-7183-en/Patzar.aspx?pos=7>, *Update No. 4* (11 June 2015) <http://www.law.idf.il/163-7353-en/Patzar.aspx?pos=3>

⁷⁵ 8 July 2015 04:35pm <https://www.amnesty.org.uk/gaza-platform-seeking-justice-war-crimes#.Vp9ZDDadXR1>

⁷⁶ <http://gazaplatfom.amnesty.org/#968>

from seeking justice and uncovering truth as it claims, Amnesty International is hiding the truth about this incident.

- 6.10. Amnesty International has thus failed to provide a “comprehensive repository of information about attacks carried out during the 2014 Gaza conflict” and has not “aimed at uncovering the truth about the attacks on Gaza and contributing to accountability efforts for crimes under international law committed by both sides during the 2014 conflict”. Instead, it has chosen to exclude the information that goes against its pre-conceived narrative and aim.
- 6.11. As well as being compromised by selective omission of relevant data, the Platform includes data that is highly unreliable. It is largely based on photographs, personal testimonies, user-generated footage and broadcast news video”.⁷⁷ As Donatella Rovera pointed out in the passage quoted in paragraph 3.5 above, personal testimonies in such circumstances are often inaccurate due to unfamiliarity with armed conflict, disinformation, misinformation and fear, particularly in a territory such as Gaza under the control of a terrorist organization. As observed in paragraphs 6.37 - 6.38 below, Hamas instructed Palestinians to describe all casualties as “innocent civilians”, irrespective of their status in jihad or military rank. Furthermore photographs and video material can be based on staged events⁷⁸, manipulated⁷⁹ or even taken from different conflicts.⁸⁰
- 6.12. The unreliability of the data is illustrated by an entry on the Platform that was promoted by the following tweet by Amnesty International:

[#KhanYounis](#): 9 Palestinian civilians killed watching World Cup in local café:
amn.st/6017B8SnW [#50Days4Gaza](#)⁸¹

This linked to an entry on Gaza Platform which stated:

⁷⁷ “*CSI: Gaza - Forensic Architects*” (video) <https://www.youtube.com/watch?v=ApVBZxQttIA>

⁷⁸ See HLMG, op. cit., para. 211

⁷⁹ For an example of video manipulation, see para 6.30 below

⁸⁰ See e.g. <http://www.pallywood.com/> and the observations of Donatella Rovera quoted in para 3.5 above

⁸¹ <https://twitter.com/AmnestyOnline/status/619180884118372352/photo/1>

“At approximately 23:00 on 9 July 2014, 9 Palestinian civilians were killed while they were in a beach coffee shop watching a match of the Football World Cup as Israeli warplanes bombarded the coffee shop. The victims were identified as: Ibrahim and Mohammed Kahlil Qannan, 24 and 26; Suleiman and Ahmed Saleem Mousa al-Astal, 17 and 18; Mousa Mohammed Taher al-Astal, 15; Mohammed Ihsan Farawana, 18; and Hamdi, Ibrahim and Saleem Sawali, 20, 28 and 23.”⁸²

However, martyrs’ Facebook pages and/or posters show that at least six of those killed were not civilians, but members of the Fatah Abu Rish Brigades.⁸³ Numerous other examples of casualties incorrectly described as civilians or medical personnel on the Gaza Platform have been identified.⁸⁴

6.13. The Gaza Platform was created using software called PATTRN developed by Forensic Architecture. According to the PATTRN website, anybody can contribute data anonymously.⁸⁵ Amnesty International’s press releases⁸⁶ included a “call for individuals and other organisations to send more photographs, testimonies and other forms of evidence of attacks they have experienced or documented during the conflict”. The possibility for anyone to contribute data anonymously creates an obvious risk of unreliability and abuse. It is inconsistent

⁸² <http://gazaplatforn.amnesty.org/#275>

⁸³ <http://elderofziyon.blogspot.com/2015/07/todays-amnesty-deceptions-and-lies.html>. Despite this, the IDF MAG has ordered a criminal investigation of the case: *Decisions of the IDF Military Advocate General regarding Exceptional Incidents that Occurred during Operation ‘Protective Edge’ – Update No. 4* (11 June 2015) item 3 <http://www.law.idf.il/163-7353-en/Patzar.aspx>

⁸⁴ See e.g. <http://elderofziyon.blogspot.com/2015/07/amnestys-gaza-health-workers-also.html>; <http://elderofziyon.blogspot.com/2015/07/bashing-israel-amnesty-has-app-for-that.html>; <http://elderofziyon.blogspot.com/2015/07/amnestys-true-colors-revealed-with-fake.html>; <http://elderofziyon.blogspot.com/2015/08/amnesty-usa-tells-whopper.html>; <http://elderofziyon.blogspot.com/search/label/Gaza%20Platform#.VZ5gOVX3-iw>; <http://elderofziyon.blogspot.com/2015/07/heres-incident-that-amnesty-wont-report.html>; <http://elderofziyon.blogspot.com/2015/08/amnestys-own-research-in-gaza-is-just.html>; <http://elderofziyon.blogspot.com/2015/08/amnestys-deception-of-day.html>; <http://elderofziyon.blogspot.com/2015/08/proven-liars-at-amnesty-say-my-research.html>

⁸⁵ <http://patrn.co/#about>

⁸⁶ “Gaza: new digital mapping project reveals deadly pattern of Israeli attacks” 8 July 2015 12:00am <https://www.amnesty.org.uk/press-releases/gaza-new-digital-mapping-project-reveals-deadly-pattern-israeli-attacks>; “Launch of innovative digital tool to help expose patterns of Israeli violations in Gaza”, 8 July 2015 00:01 UTC <https://www.amnesty.org/en/latest/news/2015/07/launch-of-innovative-digital-tool-gaza/>

with the requirement to identify sources contained in the Lund-London Guidelines.⁸⁷

- 6.14. Amnesty International must be aware of these issues, yet it makes no attempt to warn those accessing the Platform, claims to the contrary that the Platform “builds an accurate picture of what actually happened”⁸⁸ and draws conclusions from the data as if it were wholly reliable.

Context

- 6.15. The Gaza Platform is described on the website as “an interactive map of attacks by Israeli forces on Gaza”⁸⁹ and Amnesty International’s press release “*The Gaza Platform: seeking justice for war crimes*”⁹⁰ refers to “The Israeli military offensive ...”. Similar language is used in the videos.⁹¹ These phrases reflect Amnesty International’s bias in taking the Israeli military action out of its context. The Israeli military action was in response to the firing of rockets at its civilian population and the tunneling into its territory from Gaza; the action sought to stop the firing of rockets and to prevent attacks on its civilians through the tunnels. Describing the Israeli action as “attacks on Gaza” or an “offensive” tends to provide a distorted perspective.

- 6.16. Amnesty International’s promotional video commences with a statement by Eyal Weizman that

“Contemporary war is very much an urban affair. Most conflicts take place in cities.”⁹²

This sweeping statement appears to be Mr Weizman’s personal perception as an architect; there has been no shortage of armed conflicts fought in the countryside in recent years around the world.

⁸⁷ See para 3.11 above

⁸⁸ “*CSI: Gaza - Forensic Architects*” (video) <https://www.youtube.com/watch?v=ApVBZxQttIA> at 1:40

⁸⁹ Under the tab “About – Project”. There are numerous other references to “Israeli attacks” or similar wording

⁹⁰ 8 July 2015 04:35pm <https://www.amnesty.org.uk/gaza-platform-seeking-justice-war-crimes>

⁹¹ “*CSI: Gaza - Forensic Architects*” <https://www.youtube.com/watch?v=ApVBZxQttIA>;

⁹² “*CSI: Gaza - Forensic Architects*” <https://www.youtube.com/watch?v=ApVBZxQttIA>.

6.17. More importantly for present purposes, this statement serves to obscure another key part of the context: the conflict in Gaza was only urban because Hamas made it so. There are open areas in the Gaza Strip, but Hamas chose to launch most of its attacks on Israel from within the cities. Hamas combat manuals found by the IDF confirm that exploiting civilians and their suffering was deliberate strategy on the part of Hamas.⁹³ The HLMG observed:

“Hamas’s operational doctrine contains a deliberate tactic to draw the IDF into urban centres of Gaza. It is notable that Hamas training compounds are self-contained military installations outside urban areas, while its battle posture consists of exploiting the urban terrain of Gaza extensively, deliberately putting civilians in harm’s way. Hamas thus sought to exploit the advantages of fighting on pre-prepared urban terrain, in addition to exploiting the constraints brought about by the IDF’s strict adherence to LOAC, as well as seeking to highlight for its strategic communications effort the destruction and toll on civilian life that are in large part the result of Hamas’s own unlawful tactics.”⁹⁴

“Hamas ... deliberately deployed a strategy of seeking to shelter its military effort under the protections afforded to civilians, making it accountable for the civilian lives lost due to its military tactics. For example, while it could have chosen to launch rockets from unpopulated fields, it instead fired from within urban areas, seeking the protection afforded by the close proximity of civilian infrastructure. While this modus operandi limits options for Israel’s response, it also means the locale from which Hamas is firing becomes a military objective and thus places populations under Hamas control in direct danger.”

“... Additionally, Hamas constructed and used a large network of combat tunnels in Gaza itself to facilitate its military activity. These were deeply embedded in civilian infrastructure, with entrances deliberately located within

⁹³ “*The 2014 Gaza Conflict – Factual and Legal Aspects*”, Israel Ministry of Foreign Affairs, May 2015, <http://mfa.gov.il/ProtectiveEdge/Documents/2014GazaConflictFullReport.pdf>, paras 125-126

⁹⁴ HLMG, op. cit., para. 54

or near civilian sites such as residential houses or sensitive sites including mosques and medical facilities.

“Moreover, Hamas made extensive use of sensitive sites to shelter its command and control functions, including placing its operational headquarters in the Al-Shifa hospital, Gaza’s main medical facility ...”⁹⁵

Unsubstantiated and one-sided allegations

- 6.18. Amnesty International claims in its press releases that the Gaza Platform “highlights a number of patterns in the attacks by Israeli forces that indicate that grave and systemic violations were committed” such as “an overwhelming pattern of targeting residential homes” and “striking first responders, medical workers and facilities, as well as the extensive use of ‘knock on the roof’ warning attacks, where a missile fired from a drone is followed shortly afterwards by a larger bomb.”⁹⁶
- 6.19. The longer video “*The Gaza conflict: key findings from our forensic architecture platform*”⁹⁷ goes further. Philip Luther (Middle East and North Africa Programme Director at Amnesty International) says that there is “evidence of deliberate targeting of civilians”, accuses Israel of “wanton destruction of civilian buildings, of civilian infra-structure” and states that “All of those are war crimes.” He asserts that “in many cases there was no apparent military target either inside or in the proximity of those buildings” even though he has no knowledge as to what the IDF was targeting. The video claims that a statement by Israel’s Prime Minister that “Israel was doing everything to minimize Palestinian civilian casualties” was “not true and the ‘Gaza Platform’ proves it”.
- 6.20. In making these claims Amnesty International ignores the fact that the legitimacy of the military action depends on the military objective pursued and the

⁹⁵ HLMG, op. cit., paras. 105-107

⁹⁶ “*Launch of innovative digital tool to help expose patterns of Israeli violations in Gaza*”, 8 July 2015 00:01 UTC <https://www.amnesty.org/en/latest/news/2015/07/launch-of-innovative-digital-tool-gaza/>. Similar language is used in “*Gaza: new digital mapping project reveals deadly pattern of Israeli attacks*” 8 July 2015, 12:00am <https://www.amnesty.org.uk/press-releases/gaza-new-digital-mapping-project-reveals-deadly-pattern-israeli-attacks>

⁹⁷ <https://www.youtube.com/watch?v=DTvNlp8wXbw>

information known at the time of the decision to take the action. Amnesty International did not have this information. As the HLMG pointed out in the passage cited in paragraph 3.6 above, it is not possible to assess compliance with the LOAC on the basis of images of destruction, casualty figures or assertions made with incomplete information as to the military context. Amnesty International's allegations go far beyond what can be justified by the material on the Gaza Platform.

6.21. In referring to the targeting of residential homes, Amnesty International ignores the fact that these were often used by Hamas and other terrorists for military purposes. Substantial evidence of such use was included in an Israeli government report in May 2015 prior to the publication of this video.⁹⁸ Amnesty International must have been aware of this evidence but chose to disregard it because Amnesty International evidently has no desire to seek the truth.

6.22. Amnesty International also ignores the fact that the successful destruction of the Hamas military tunnels necessitated extensive destruction of property in their vicinity. The HLMG explains:

“... as related to the destruction of Hamas tunnels, which are located in Hamas's fortified positions, and require static IDF engineering forces to operate for long periods of time, legitimate force protection efforts can result in significant destruction of property.”⁹⁹

6.23. Eyal Weizman accuses Israel in the video¹⁰⁰ of “attacks on first responders, attacks on ambulances, on hospitals”. The video claims that “The ‘Gaza Platform’ identifies about 30 occasions when the Israeli military hit ambulances and ‘first responders’”. Over video footage of medical personnel an Amnesty International “researcher” continues:

⁹⁸ “*The 2014 Gaza Conflict – Factual and Legal Aspects*”
<http://mfa.gov.il/ProtectiveEdge/Documents/2014GazaConflictFullReport.pdf> paras 151-154

⁹⁹ HLMG, op. cit., para 58

¹⁰⁰ “*The Gaza conflict: key findings from our forensic architecture platform*”
<https://www.youtube.com/watch?v=DTvNlp8wXbw>

“These medics have been attacked. Ambulances have been bombed, and medics coming out of ambulances to attend to people have been shot at. In one case one medic was shot at by Israeli soldier in the leg and was left there to bleed until he died. Medics should be not only protected but their work should be facilitated, and what we’ve seen here is that Israel has worked completely against that. This is a war crime, pure and simple.”

- 6.24. By referring to “the Israeli military” and “Israel”, rather than “an Israeli soldier”, Amnesty International allege that it is Israel’s policy to murder medical personnel. This is an extremely serious blood libel.
- 6.25. In making these serious allegations against Israel, Amnesty International ignores the extensive military use made by Hamas of medical facilities and of locations in close proximity to medical facilities. It also ignores the possibility that medical personnel and facilities were hit by Palestinian fire or missiles.
- 6.26. The report published by the Israeli Ministry of Foreign Affairs in May 2015 identified the following examples of misuse of medical facilities by Hamas or other terrorists:¹⁰¹
- Use of the Al-Shifa hospital (Gaza’s main hospital) as its headquarters, command centre and security service interrogation centre
 - Launching of rockets from the Al-Shifa hospital compound
 - Use of Al-Wafa hospital in Shuja’iyeh as a sniper post, anti-tank missile launch site, weapons storage facility, platform for surveillance devices and cover for tunnel infrastructure; video footage shows terrorists firing from within the hospital and traveling in ambulances (one disguised in a white medic’s coat)
 - A combat tunnel hidden under a health clinic owned by the Palestinian Authority Ministry of Health in Khan Yunis

¹⁰¹ “*The 2014 Gaza Conflict – Factual and Legal Aspects*” <http://mfa.gov.il/ProtectiveEdge/Documents/2014GazaConflictFullReport.pdf> paras 129-132. For another example of evidence of misuse of ambulances by terrorists, see <http://elderofziyon.blogspot.com/2015/07/amnestys-gaza-health-workers-also.html>

- Hiding of senior terrorists in Al-Nasser hospital, Khan Yunis, and Al-Najjar hospital in Rafah
- Storage of weapons in Al-Nasser and Halal hospitals in Khan Yunis
- Construction of a tunnel adjacent to a health clinic in Alfukhkari, Khan Yunis
- Firing of rockets and mortars from the vicinity of the Indonesian Hospital, Beit Lahiya; a clinic for mentally disabled in Shuja'iyeh; an ICRC clinic in Beit Lahiya; Shuhada Health Centre in the Al-Shati camp; Dar Al-Salaam Hospital, Khan Yunis; Al Karma Hospital, Sheikh Radwan; Al-Shifa Hospital; and an ICRC facility in Beit Lahiya.

6.27. The IDF's MAG had earlier reported in December 2014 on investigations into various allegations that medical personnel or facilities had been hit by IDF fire.¹⁰² In one case, the target was a Palestinian rocket-launching site a few tens of meters from a Red Crescent station in Jabalya; despite precautions, some damage and possibly some injuries were caused at the Red Crescent station. In another case, the target was a weapons depot in the home of a senior Hamas commander in Bet Lehia; unknown to the IDF there was a care centre for disabled persons in the same building; despite attempts to warn residents in advance, there were casualties. In a third case, the targets were parts of the Al-Wafa hospital that were being used by Palestinian terrorists for military activity; prior warnings were given to avoid casualties. In a fourth case, concerning an ambulance in Bet Hanoun, no IDF action could be identified; it is possible that this was Palestinian fire. On the other hand, the MAG ordered criminal investigations in two other cases concerning the deaths of ambulance drivers because there may have been a deviation from IDF rules and procedures.¹⁰³

¹⁰² *Decisions of the IDF Military Advocate General regarding Exceptional Incidents that Occurred during Operation 'Protective Edge' – Update No. 2 (7 December 2014), Cases Closed by the MAG items 4-7* www.lawid.il/163-6958-en/Patzar.aspx?pos=17

¹⁰³ *Ibid, Incidents into Which, Following an Assessment by the FFAM, the MAG has Ordered Criminal Investigations items 3 and 4*

- 6.28. These details were all published before the Amnesty International video was prepared and published, but were ignored because Amnesty International had no intention of providing an accurate or fair assessment.
- 6.29. The Amnesty International video also criticizes Israel's efforts to warn civilians of impending attacks as ineffective. In doing so, it ignores Amnesty International's own findings in its report "*Nothing is Immune' Israel's Destruction of Landmark Buildings in Gaza*"¹⁰⁴ that four "landmark buildings" destroyed by Israeli bombing were successfully evacuated as a result of prior Israeli warnings. Amnesty International also ignores substantial evidence of Hamas's attempts to pressure civilians to disregard IDF warnings.¹⁰⁵ Again, the failure to mention this evidence appears to reflect a basic lack of integrity on the part of Amnesty International.
- 6.30. This part of the video includes footage which purports to show less than a minute gap between a "roof knock" warning and the main strike. In the original version of the video, the footage was doctored to abridge the time between the warning and the strike from 15 minutes to just over one minute.¹⁰⁶ The video was revised following the exposure of this manipulation. In the revised version, footage of a different incident is used, but Amnesty International omit to inform the viewer that a warning given earlier enabled all five families living in the house to evacuate.¹⁰⁷
- 6.31. The HLMG reviewed the IDF procedures for prior warnings and concluded:¹⁰⁸
- "It is our assessment that the procedures the IDF deploys in order to give prior warning of an attack are extensive and well conceived. It is evident to us that they are a major effort aimed at ensuring Israel is able to mitigate the effects of Hamas's tactic of hiding its infrastructure in civilian locations. Not only do

¹⁰⁴ 9 December 2014, MDE 15/0029/2014;

<https://www.amnesty.org/en/documents/mde15/0029/2014/en/>, discussed in section 5 above

¹⁰⁵ "*The 2014 Gaza Conflict – Factual and Legal Aspects*"

<http://mfa.gov.il/ProtectiveEdge/Documents/2014GazaConflictFullReport.pdf> paras 158-164

¹⁰⁶ <http://elderofziyon.blogspot.co.uk/2015/07/amnestys-blood-libel-against-idf.html#.VqafQzadWt8>;

Appendix B, page 322

¹⁰⁷ <http://elderofziyon.blogspot.com/2015/07/todays-amnesty-deceptions-and-lies.html>.

¹⁰⁸ HLMG, op. cit., para. 100

Israel's warnings clearly save lives, but they further telegraph to enemy operatives who are legitimate military targets what Israel's intentions are and thus create a major tactical cost for the IDF. In this context, we note that the IDF has further developed a unique tactical innovation aimed at the preservation of innocent life, which to our knowledge is unprecedented in warfare, the "knock on the roof" procedure. Given the extensive nature of the IDF's warning protocol, the clear evidence that it has saved lives, and the tactical innovation brought to bear in doing so - which exceeds our own armies' current practices - we are concerned about recent attempts on the basis of incorrect legal interpretations to discredit Israel's practices in this regard. Secondary, effects-based considerations are not applicable to the requirements of LOAC in assessing such attempts at warnings. Nor does international law require warnings before every attack - there are legitimate and lawful combat scenarios where warnings are unfeasible or not required. Additionally, even where warnings are given according to a protocol as effective as the IDF's, they do not guarantee the absence of harm to civilians or property which has no bearing on the legal status of an action. Our view is that Israel's protocol as relates to warnings prior to a strike is highly advanced, clearly effective - at considerable tactical cost to the IDF - and far exceeds the requirements of LOAC."

Figures for civilian casualties

- 6.32. The Gaza Platform website says that it records the deaths of more than 2,200 people, including 1,800 civilians and 600 children, implying that a large majority of those killed were civilians.¹⁰⁹ However, under the tab "About - Methodology", it explains that

"All casualties are recorded as civilians unless specified otherwise in the reports available. ... Children are people of both genders under the age of 18 years. Civilians include children."

¹⁰⁹ <https://gazaplatfrom.amnesty.org/>, tab "About - Project"

- 6.33. Amnesty International's videos for the Gaza Platform claim that most of the Palestinians killed during the operation were civilians, without explanation or qualification.¹¹⁰
- 6.34. By contrast, the IDF's preliminary analysis of Palestinian fatalities¹¹¹ found that 2,125 Palestinians were killed in the course of the 2014 conflict, of which 936 (44%) had been identified as militants. The process of identifying militants was ongoing; an additional 428 males aged between 16 and 50 included in the total of 2,125 (20%) could have been involved with the hostilities. 761 of the total had been identified as uninvolved civilians, either because there was no indication that they were involved in the hostilities or because they were assumed to be uninvolved in view of their age and gender.
- 6.35. Al Jazeera published a list of Gaza fatalities between 7 and 14 July 2014.¹¹² The New York Times analysed this information in an article on 6 August 2014 and found that men aged between 20 and 29 were significantly over represented in the death toll, accounting for 34% of those killed whose ages were provided, whereas they constitute 9% of Gaza's 1.7 million residents.¹¹³ This analysis was also discussed in an article by the Head of Statistics at BBC News published on the BBC's website on 8 August 2014.¹¹⁴ Subsequent research indicates that less than half of the Palestinian fatalities caused by Israeli fire were civilians.¹¹⁵
- 6.36. The Gaza Platform video uses figures provided by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA). However OCHA's information on Palestinian casualties appears to have been provided by the

¹¹⁰ "CSI: Gaza - Forensic Architects" 7 July, 2015 <https://www.youtube.com/watch?v=ApVBZxQttIA> at 3:15; "The Gaza Platform: seeking justice for war crimes" <https://www.amnesty.org.uk/gaza-platform-seeking-justice-war-crimes> at 1:40

¹¹¹ Annex to "The 2014 Gaza Conflict – Factual and Legal Aspects" May 2015 <http://mfa.gov.il/ProtectiveEdge/Documents/PalestinianFatalities.pdf>.

¹¹² <http://www.aljazeera.com/news/middleeast/2014/07/gaza-under-seige-naming-dead-2014710105846549528.html>

¹¹³ http://www.nytimes.com/2014/08/06/world/middleeast/civilian-or-not-new-fight-in-tallying-the-dead-from-the-gaza-conflict.html?_r=0. A similar analysis was carried out by the media monitoring organization, CAMERA: http://www.camera.org/index.asp?x_context=2&x_outlet=118&x_article=2762.

¹¹⁴ "Caution needed with Gaza casualty figures" <http://www.bbc.co.uk/news/world-middle-east-28688179>

¹¹⁵ Lenny Ben-David, "Gazan Casualties: How Many and Who They Were" Jerusalem Center for Public Affairs, 2015 <http://jcpa.org/casualties-gaza-war/#sthash.KvyEUG6n.dpuf>.

Palestinian Ministry of Health in Gaza, a Hamas-controlled office, PCHR and Al Mezan.¹¹⁶

- 6.37. During the 2014 conflict Hamas deliberately sought to ensure that terrorist casualties would be taken to be civilians. On 11 July 2014 the Hamas-controlled Interior Ministry in the Gaza Strip uploaded guidelines for social media users to its website, Facebook and Twitter pages, which stated:¹¹⁷

“Anyone killed or martyred is to be called a civilian from Gaza or Palestine, before we talk about his status in jihad or his military rank. Don’t forget to always add ‘innocent civilian’ or ‘innocent citizen’ in your description of those killed in Israeli attacks on Gaza. Do not publish photos of military commanders. Do not mention their names in public, and do not praise their achievements in conversations with foreign friends!”

- 6.38. On 5 August 2014 the same Ministry posted the following notice through social media:¹¹⁸

“The Ministry of the Interior and National Security calls on all our people and the resistance factions to be wary of disseminating information and pictures of fatalities of the resistance and mentioning details about their deaths as martyrs and where they died. That is because the occupation is collecting all the information and reports and uses them as evidence to justify its crimes against civilians and the destruction of buildings and to take advantage for security purposes. [We appeal] especially to social network activists and in the media belonging to the resistance factions. During the past few hours we have located many postings with sensitive information detrimental to our

¹¹⁶ “Additional findings in the examination of the names of Palestinians killed in Operation Protective Edge – Part Eight” Meir Amit Intelligence and Terrorism Information Center, 29 December 2014 http://www.terrorism-info.org.il/Data/articles/Art_20753/E_200_14_172393803.pdf; “Gazan Casualties: How Many and Who They Were” Lenny Ben-David, Jerusalem Center for Public Affairs, 2015 <http://jcpa.org/casualties-gaza-war/#sthash.KvyEUG6n.dpuf>; “BBC Watch uncovers the sources of Jeremy Bowen’s cited casualty figures” BBCWatch, 13 July 2014 <https://bbcwatch.org/2014/07/13/bbc-watch-uncovers-the-sources-of-jeremy-bowens-cited-casualty-figures/>

¹¹⁷ The Middle East Media Research Institute (MEMRI) <http://www.memri.org/report/en/0/0/0/0/0/8076.htm>

¹¹⁸ “War of the Casualties” Meir Amit Intelligence and Terrorism Information Center, 6 August 2014 http://www.terrorism-info.org.il/data/articles/Art_20698/E_140_14_976270999.pdf

people and its resistance. Mention of the acts of heroism of our martyrs and of the men of our resistance should not be a reason for causing greater damage, because our people's battle against the occupation continues.”

6.39. Hamas and other terrorists typically do not wear military uniform and are therefore not readily identifiable by medical staff as such. Particularly in the light of Hamas’s instructions, medical staff would naturally report all such casualties as civilians.

6.40. As the HLMG observed:¹¹⁹

“Hamas plainly considers civilian deaths a benefit in terms of aiding its war against Israel in the realm of public opinion. It pursued a deliberate and effective wide-ranging misinformation effort aimed at eroding Israel’s legitimacy by constraining press freedom in Gaza through surveillance and intimidation, proactive fabrication of information and visuals, and directives to its operatives about behaviour and language that would portray casualties of its fighters as civilian deaths.”

6.41. Amnesty International must be aware of the grounds for doubting the validity of the casualty figures derived from sources controlled or influenced by Hamas, particularly as regards how many of them were civilians and how many were terrorists.¹²⁰ In these circumstances Amnesty International must know that its presentation of casualty figures on the Gaza Platform, in its videos for the Gaza Platform and elsewhere¹²¹ is deeply misleading.

6.42. The deaths recorded on Amnesty International’s Gaza Platform are also likely to include deaths from Palestinian fire as well as Israeli fire, particularly given the

¹¹⁹ HLMG, op. cit., para. 13

¹²⁰ As well as being discussed in the New York Times and on the BBC website, the issue was addressed in detail in the Annex to the Israeli Government’s Report: “*The 2014 Gaza Conflict – Factual and Legal Aspects*” May 2015 <http://mfa.gov.il/ProtectiveEdge/Documents/PalestinianFatalities.pdf>

¹²¹ For example, in its reports “*‘Black Friday’: Carnage in Rafah during 2014 Israel/Gaza conflict*” – Background, 29 July 2015, MDE 15/2146/2015 <https://blackfriday.amnesty.org/report.php>; “*‘Nothing is Immune’ Israel’s Destruction of Landmark Buildings in Gaza*” – Introduction, 9 December 2014 MDE 15/0029/2014; <https://www.amnesty.org/en/documents/mde15/0029/2014/en/>; “*Families under the rubble: Israeli attacks on inhabited homes*” – Introduction, 5 November 2014 MDE 15/032/2014; <https://www.amnesty.org/en/documents/mde15/032/2014/en/>

unreliability of evidence as to the source of fire described by Donatella Rovera, in the passage quoted in paragraph 3.5 above.¹²² Again, Amnesty International must know that it is misleading to present the data as it does without appropriate qualification. It is likely that overall figures of Palestinian fatalities quoted by Amnesty International as if they were all caused by Israeli fire, also include those caused by Palestinian fire and executions by Palestinians during the hostilities.

Summary

- 6.43. The matters identified above are only some of the serious failures of this exercise to meet a minimum standard of objectivity and integrity. The fact that other aspects of the “Gaza Platform” and related materials have not been covered in this memorandum should not be regarded as any indication that they are valid or acceptable.
- 6.44. The analysis above suffices to show that in creating its Gaza Platform, Amnesty International set out to find Israel guilty and to ignore crimes by Hamas, chose to work with biased collaborators, excluded data that did not support its one-sided agenda, included data that was unreliable and ignored its deficiencies, obscured key aspects of the context, made unsubstantiated and one-sided allegations against Israel, dishonestly ignored evidence that undermined them, and fraudulently presented the project as an effort to seek the truth.

¹²² Further evidence of the unreliability of such information as to the source of fire is provided on the Gaza Platform by the discrepancies in the two accounts of the deaths of the four Bakr boys on 16 July 2014: one ascribes the fire to gunboats, the other to a warplane; one says one missile, the other says three; one gives the time as 16:10, the other 3.30pm: see <http://gazapatform.amnesty.org/#968>

7. **Report “Black Friday’: Carnage in Rafah during 2014 Israel/Gaza conflict”¹²³, Press Release “Gaza ‘Black Friday’: Cutting edge investigation points to Israeli war crimes in Rafah”¹²⁴ and Video “Black Friday: Carnage in Rafah”¹²⁵**

7.1 In its Executive Summary¹²⁶, Amnesty International describes this Report as follows:

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

Amnesty International alleges that

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

7.2 The Video is described in the following terms:¹²⁷

¹²³ 29 July 2015, MDE 15/2146/2015 <https://blackfriday.amnesty.org/report.php>; Executive Summary <https://blackfriday.amnesty.org>

¹²⁴ 29 July 2015, 09:00 UTC; <https://www.amnesty.org/en/latest/news/2015/07/gaza-cutting-edge-investigation-rafah/>

¹²⁵ <https://www.amnesty.org/en/latest/news/2015/07/black-friday-video/> 31 July 2015

¹²⁶ <https://blackfriday.amnesty.org>

¹²⁷ <https://www.amnesty.org/en/latest/news/2015/07/black-friday-video/>

“This is the story of what happened that day - which saw the highest number of Palestinian civilians lose their lives under a massive bombardment by the Israeli military - told in most extraordinary detail in a joint investigation by Amnesty International and the Forensic Architecture department of Goldsmiths, University of London. Using a 3D model of Rafah and hundreds of stills, video footage, testimonies this collaboration shows that there is strong evidence that the Israelis committed war crimes and possible crimes against humanity: something they have always denied. It is the story of the kidnapping of a soldier, a secret military order and the extraordinary price paid by Palestinian civilians for a single Israeli life.”

7.3 Amnesty International’s Press Release¹²⁸ announced

“New evidence showing that Israeli forces carried out war crimes in retaliation for the capture of an Israeli soldier has been released today in a joint report by Amnesty International and Forensic Architecture. The evidence, which includes detailed analysis of vast quantities of multimedia materials, suggests that the systematic and apparently deliberate nature of the air and ground attack on Rafah which killed at least 135 civilians, may also amount to crimes against humanity.”

It quoted Philip Luther (Director of the Middle East and North Africa Programme at Amnesty International) as saying:

“There is strong evidence that Israeli forces committed war crimes in their relentless and massive bombardment of residential areas of Rafah in order to foil the capture of Lieutenant Hadar Goldin, displaying a shocking disregard for civilian lives. They carried out a series of disproportionate or otherwise indiscriminate attacks, which they have completely failed to investigate independently”

¹²⁸ 29 July 2015, 09:00 UTC <https://www.amnesty.org/en/latest/news/2015/07/gaza-cutting-edge-investigation-rafah/>

7.4 All of these publications by Amnesty International omit or obscure key parts of the context:

7.4.1 No mention is made of what happens to an Israeli who is captured by Hamas. On past form, he is likely to be imprisoned for years without any contact or communication with his family or the outside world, in gross violation of International Humanitarian Law. Either the Israeli government will yield to blackmail and release hundreds or thousands of convicted terrorists, a significant number of whom are likely to commit further acts of terrorism causing further loss of life; or he will remain imprisoned indefinitely without any contact or communication with his family or the outside world.

7.4.2 No mention is made by Amnesty International of the major military importance of the tunnels constructed by Hamas and the threat they present of an incursion into Israel resulting in a large number of casualties and/or the capture by Hamas of a large number of prisoners to be used and abused as described above.

7.4.3 No mention is made by Amnesty International of the failure of Hamas to abide by previous agreed ceasefires. As the HLMG observed:¹²⁹

“Prior to and during the 2014 Gaza Conflict, Israel actively pursued continuous efforts through third-party brokers to facilitate first a de-escalation and subsequently a prompt termination of hostilities. In addition to introducing unilateral ceasefires for humanitarian purposes, which in some cases Hamas exploited to mount attacks, Israel agreed to and complied with multiple ceasefires initiated by the UN, Egypt and the United States. Hamas and other militants in Gaza either rejected outright or, in a majority of cases, accepted and then broke them within a short time of terms being agreed. Such was the case on July 15, 20 and 28, and on August 1, 8, 13 and 19, where

¹²⁹ HLMG, op. cit., para. 134

mutually agreed-upon ceasefires broke down after Israel was attacked by Hamas in violation of these.”

7.5 Having omitted the context of repeated violations by Hamas of agreed ceasefires, Amnesty International then obscures the fact that Lieutenant Goldin was violently abducted after this ceasefire came into force and in clear violation of it.

7.6 Amnesty International also avoids mentioning the overwhelming probability that Hamas fired first on the Israeli soldiers in breach of the ceasefire, saying merely that

“a group of Israeli soldiers patrolling an agricultural area west of the border encountered a group of Hamas fighters posted there. A fire fight ensued, resulting in the death of two Israeli soldiers and one Palestinian fighter.”¹³⁰

That Hamas fired first is highly likely given (a) its history of not complying with ceasefires and (b) the fact that the Israeli soldiers were well aware of the ceasefire and had abstained from firing a missile at the building in compliance with it.¹³¹ Amnesty International’s failure to acknowledge this likelihood stands in contrast to its willingness to make completely unsubstantiated allegations against the Israeli forces.¹³²

7.7 Instead, Amnesty International tries to blame the IDF for continuing to look for Hamas tunnels while the ceasefire was in force.¹³³ There is no reason why the IDF should not have continued to look for Hamas tunnels. Neither side had agreed to cease preparations or reconnaissance during the ceasefire.

7.8 Most importantly, Amnesty International’s publications fail to recognize that destroying the tunnel was a very significant military objective in its own right, in addition to the recovery of Lieutenant Goldin. The ceasefire having broken down

¹³⁰ Executive Summary “‘Black Friday’: Carnage in Rafah during 2014 Israel/Gaza conflict” <https://blackfriday.amnesty.org>

¹³¹ See the Report <https://blackfriday.amnesty.org/report.php> - Main Narrative - “Hannibal Unleashed” – “The Fire Fight”

¹³² This disparity is inconsistent with para. 70 of the Lund-London Guidelines: see para 3.11 above.

¹³³ Report <https://blackfriday.amnesty.org/report.php> - Main Narrative - “Pushing the Limit” and “Attacking the Frontier”

as a result of Hamas's violation, the IDF was justified in taking the measures necessary to destroy this target. Moreover, these measures may well have necessitated extensive destruction of property for the reasons explained in paragraph 6.22 above. This is relevant to any assessment of the IDF's actions both before Lieutenant Goldin was declared dead and subsequently, when Amnesty International suggests that no further action could be justified. Ignoring the tunnel as a military objective is thus a critical failure in Amnesty International's coverage of this part of the conflict.

- 7.9 Amnesty International also ignores the fact that since the ceasefire had broken down as a result of Hamas's violation, the IDF was justified in attacking other legitimate targets, whether or not for the purpose of recovering Lieutenant Goldin, until a further ceasefire was agreed and came into force. In treating the abduction of Lieutenant Goldin as the sole reason for further action by the IDF, Amnesty International disregards the context of hostilities initiated and continued by Hamas in violation of a series of agreed ceasefires.
- 7.10 These omissions are fundamental and inconsistent with an objective assessment of the IDF's actions.
- 7.11 In addition, Amnesty's coverage of this part of the conflict is based on its "Gaza Platform", discussed in the previous section of this memorandum. As demonstrated above, this resource is thoroughly biased and unreliable.
- 7.12 Amnesty International's conclusion that there is "overwhelming evidence" that Israel committed war crimes is thus based on a combination of ignoring key facts and relying on information that was unreliable and collected with in-built bias.

8. **Amnesty International Reports: “Unlawful and deadly: Rocket and mortar attacks by Palestinian armed groups during the 2014 Gaza/Israel conflict”¹³⁴ and “‘Strangling Necks’ Abductions, torture and summary killings of Palestinians by Hamas forces during the 2014 Gaza/Israel conflict”¹³⁵**

8.1. Amnesty International may seek to argue against allegations of bias that it issued these two reports which are critical of Hamas. However, even though these reports are said to be focused on the conduct of Hamas and supposedly devoted to Palestinian war crimes, Amnesty International could not resist the temptation to criticise Israel throughout both of them.¹³⁶ Far from providing Amnesty International with a “shield” to allegations of improper bias against Israel, these reports provide yet more compelling evidence of Amnesty International’s antagonism towards Israel.

8.2. Over half of the introduction to the report on rocket and mortar attacks by Palestinian armed groups consists of criticism of Israel. This report also focuses in numerous references¹³⁷ on the lack of shelters in unrecognized Bedouin villages during the war. Those references are intended to target and criticise Israel. Given that the reports are apparently supposed to represent a critique of Hamas’ conduct the question arises: “Why is Israel being criticized at all in a report on Hamas?” There is nothing about these criticisms of Israel that, in any way, “contextualize” a critique of Hamas’ conduct. Rather, Amnesty International has created victims within Israel of its own citizens. Thus by subtle and vindictive means, Amnesty International employed a report on Hamas to criticize Israel for failing to protect its own citizens. No such criticism of Hamas’ failure to protect its Palestinian population appears in any report on the conduct of the IDF. The report discloses the institutional and irrational obsession within Amnesty International to criticise Israel.

¹³⁴ 26 March 2015, MDE 21/1178/2015; <https://www.amnesty.org/en/documents/mde21/1178/2015/en/>

¹³⁵ 27 May 2015, MDE 21/1643/2015; <https://www.amnesty.org/en/documents/mde21/1643/2015/en/>

¹³⁶ In “*Unlawful and deadly: Rocket and mortar attacks by Palestinian armed groups during the 2014 Gaza/Israel conflict*”, see in particular pages: 3, 4, 5, 10, 14, 19, 20, 24, 27, 29, 32, 36, 37, 39, 40, 60, 61 In “*‘Strangling Necks’ Abductions, torture and summary killings of Palestinians by Hamas forces during the 2014 Gaza/Israel conflict*”, see in particular pages: 5, 8, 9, 11, 26, 40, 42, 43

¹³⁷ on pages 3, 5, 19, 20, 24, 60

8.3. By contrast, this same report gives Hamas the benefit of the doubt in a way that has no parallel in Amnesty International's reports on Israel.¹³⁸ This is evidenced in Amnesty International's attempts to construe statements by Hamas officials as not encouraging civilians to ignore Israeli warnings.¹³⁹

“Amnesty International has not been able to verify specific statements which the Israeli authorities have cited as made by Hamas officials during the hostilities encouraging civilians in Gaza to ignore IDF warnings to evacuate. However, the reported statements were directed to civilians in general or in large geographic areas; for example, Ministry of Interior spokesperson Iyad al-Buzm's call on people ‘in all parts of the Strip to ignore the warnings ... as these are part of a psychological warfare’. Public statements referring to entire areas do not amount to directing specific civilians to remain in their homes in order to render fighters, munitions or military equipment in specific locations immune from Israeli attacks. Thus, while potentially of concern, such statements would not constitute the use of ‘human shields’.

“In some cases, the warnings issued by the Israeli military did not specify safe evacuation routes, and in many cases, civilians who tried to evacuate came under Israeli fire. In these circumstances, the Hamas authorities instructing civilians in the Gaza Strip not to leave their homes could have been out of concern for their safety or a desire to avoid further panic. It cannot be presumed that the intention of any such statements by the authorities was to use civilians to prevent the targeting of specific military objectives by Israeli forces.

“International humanitarian law is clear that, even if officials or fighters from Hamas or Palestinian armed groups associated with other factions did in fact direct civilians to remain in a specific location in order to shield military objectives, it would not relieve Israel of its obligation to take all necessary

¹³⁸ This disparity is inconsistent with para. 70 of the Lund-London Guidelines: see para 3.11 above.

¹³⁹ “*Unlawful and deadly: Rocket and mortar attacks by Palestinian armed groups during the 2014 Gaza/Israel conflict*”, March 2015, MDE 21/1178/2015

<https://www.amnesty.org/en/documents/mde21/1178/2015/en/>, page 46

precautions to minimize harm to civilians when planning and carrying out attacks on these objective.”

- 8.4. Thus on examination even of these two reports supposedly directed at the conduct of Hamas and other Palestinian groups, Amnesty International’s ingrained political bias is exposed and any claim to neutrality or even-handedness cannot survive even a superficial analysis.

Appendix

The High Level Military Group

- A.1 The analysis of Amnesty International’s coverage of the 2014 Gaza conflict in this memorandum refers to and relies on a report by the High Level Military Group (HLMG) published in October 2015, “*An Assessment of the 2014 Gaza Conflict*.”¹⁴⁰
- A.2 Reliance on this report is justified in view of the HLMG’s members’ impeccable credentials, their military and military-legal expertise, their familiarity with using the internationally accepted and objective criteria for assessment of military actions, and their access to comprehensive and relevant information relating to the conflict.
- A.3 The HLMG was founded by The Friends of Israel Initiative. While this might be thought to indicate a pro-Israel agenda, the HLMG explain the rationale for their investigation thus:
- “The Friends of Israel Initiative (FoII) was founded to defend Israel against delegitimation campaigns not because we felt a moral obligation or a historical debt to Israel as the State of the Jewish people. Rather, we seek to defend the existence of the State of Israel because in doing so we are defending ourselves and the security and prosperity of the Western world, of which Israel is an integral part.”¹⁴¹
- A.4 Their mandate was “to examine Israel’s conduct of the 2014 Gaza Conflict, in the context of a larger project seeking to address the implications for warfare where democratic nations are engaged in fighting enemies who disregard the Law of Armed Conflict (LOAC) but exploit our own nations’ adherence to LOAC for their gain.”¹⁴²

¹⁴⁰ <http://www.high-level-military-group.org/pdf/hlmg-assessment-2014-gaza-conflict.pdf>

¹⁴¹ HLMG, op. cit., page 5

¹⁴² Ibid, page 7, para. 1

A.5 The HLMG “is comprised of top-level practitioners from democratic nations whose expertise covers the entire gamut of the conduct of warfare and who are intimately familiar with the battlefield scenarios, operational and legal imperatives, and military and humanitarian duties relevant to the 2014 Gaza Conflict”¹⁴³ -

General Klaus Dieter Naumann (Germany) is the former Chief of Staff of the Bundeswehr, the German armed forces, and served as Chairman of the NATO Military Committee from 1996 to 1999.

General Vincenzo Camporini (Italy) is the former Chief of the Defence Staff of Italy. He served as Deputy Chief of the Defence General Staff and President of the Italian Centre for High Defence Studies before being appointed Chief of Staff of the Italian Air Force and subsequently Chief of the Defence General Staff.

Lieutenant General David A. Deptula (United States) was the principal attack planner for the Desert Storm coalition air campaign in 1991. He served as Director of the Combined Air Operations Center in Afghanistan and as the first Deputy Chief of Staff for Intelligence, Surveillance and Reconnaissance (ISR), Headquarters Air Force.

Admiral José María Terán (Spain) serves in the Office of Strategic Assessment of the Minister of Defence of Spain. A former Chief of the Joint Staff and Chief of the Strategic Analysis Group, he has also served as Director for Reorganisation of the Spanish Intelligence Service.

Major General Andrew James Molan (Australia) served as the Chief of Operations for the Headquarters Multinational Force in Iraq. He is a former Commander of the Australian Defence College and has served as Adviser to the Vice Chief of the Australian Defence Force on Joint Warfighting Lessons and Concepts.

¹⁴³ Ibid.

Lieutenant General Kamal Davar (India) served as the first Director General of the Defence Intelligence Agency of India. A former Director-General, Mechanised Forces at Army Headquarters, he has held a large number of high ranking command posts in the Indian Army and served on the Indian Military Training Team in Iraq.

Brigadier General Alain Lamballe (France) served in the General Secretariat for National Defence as head of the Southeast Asia and Europe sections as well as heading the Central Liaison Mission for Assistance to Foreign Forces. He is the former Director of the Department of Security Cooperation of the OSCE Mission in Bosnia and Herzegovina.

Colonel Richard Kemp (United Kingdom) was Commander of British Forces in Afghanistan and has served in Iraq, the Balkans, South Asia and Northern Ireland. He has led the international terrorism team at the UK's Joint Intelligence Committee and served as chairman of the strategic intelligence group for COBRA, the UK national crisis management committee.

Colonel Vincent Alcazar (United States) served as a fighter pilot in Operations Desert Storm and Southern Watch as well as various other post 9/11 theatres. He subsequently served in strategic roles at the Pentagon, the U.S. Defense Intelligence Agency and at the U.S. embassy, Baghdad, Iraq.

Colonel Eduardo Ramirez (Colombia) is an Advisor to the Congress of Colombia who served with the Colombian National Police from 1987 until 2013. He was formerly the Chief of Security Staff for President Uribe of Colombia, as well as Chief of Section at the Judicial and Criminal Directory of the National Police.

Ambassador Pierre-Richard Prosper (United States) was Ambassador-at-large in charge of the US Secretary of State's Office of War Crimes Issues. A former Presidential envoy and adviser to the National Security Council he was previously a war crimes prosecutor for the United Nations International Criminal Tribunal for Rwanda.

Rafael L. Bardají is the Executive Director of the Friends of Israel Initiative and National Security Advisor to Former President of Spain, José María Aznar. He formerly served in the Government of Spain as the National Security Adviser and in leadership positions in the Ministry of Defence.

Davis Lewin is the Rapporteur of the High Level Military Group. He is the Deputy Director and Head of Policy and Research at The Henry Jackson Society, a London based Foreign and Defence Policy think tank.

Joseph Raskas is a Research Assistant for The Friends of Israel Initiative and a Fellow at The Public Interest Fellowship.¹⁴⁴

A.7 The HLMG’s findings are based on first-hand research:

“Between June and August 2015 HLMG members and staff undertook two extensive fact-finding trips and four additional research trips to assess every aspect of Israel’s conduct in the 2014 Gaza Conflict. The State of Israel granted us unprecedented access, undoubtedly in excess of what our own countries would afford in similar circumstances. The Prime Minister, Defence Minister, Chief of Staff of the Israel Defense Forces (IDF) at the time of the 2014 Gaza Conflict, all ranks of the IDF, the Internal Security Agency (ISA), other relevant retired officials, as well as civilians affected by the fighting were made available to us. The necessary absence of some classified material did not impede our ability to form a comprehensive professional assessment in line with our mandate. No topic was off limits and interlocutors gave frank and detailed responses throughout. In addition we were able to draw on a wide range of supplementary expertise, open and closed sources and were supported in our study by a Rapporteur and full staff.¹⁴⁵

“The resultant report at hand constitutes our professional assessment as to whether Israel acted as a reasonable country would, within the norms and laws governing warfare, and on the basis of appropriate military conduct in the

¹⁴⁴ Ibid, page 4

¹⁴⁵ Ibid, page 7, para. 2

legal, operational and ultimately moral realm. The conclusions we have arrived at are our own, formed on the basis of only our professional experience and the exhaustive fact-finding we were able to engage in.”¹⁴⁶

A.8 The HLMG report was not available to Amnesty International at the time of its publications on the 2014 Gaza conflict discussed in the memorandum. However, one of the main objections to the conduct of Amnesty International in this regard is precisely that it published “findings” with the apparent authority and impartiality that it commands as a well-known human rights charitable organization, when it lacked any or any sufficient military and military-legal expertise or access to critical information on which such findings could properly be based. Nor has Amnesty International shown any willingness to correct or revise its “findings” or to review its approach or methodologies in the light of the HLMG report.

¹⁴⁶ Ibid, page 7, para. 3