

# TABLE OF CONTENTS

1. INTRODUCTION .....	1
2. “GRAPES OF WRATH”: BACKGROUND .....	2
3. THE LAWS OF WAR .....	5
3.1 Prohibition of direct attacks against civilians .....	5
3.2 Prohibition of indiscriminate attacks .....	6
3.3 Prohibition of reprisal attacks on civilian population .....	6
3.4 Prohibition of using the civilian population as a shield .....	7
4. VIOLATIONS OF THE LAWS OF WAR .....	8
4.1 Warnings: To protect or to terrorize the civilian population? .....	8
4.2 Unlawful attacks on the civilian population by <i>Hizbullah</i> .....	10
4.3 Unlawful killings by the IDF during Operation “Grapes of Wrath” .....	11
Attack on ambulance carrying civilians, 13 April 1996 .....	11
Attack on house in Upper Nabatiyya, 18 April 1996 .....	14
Attack on UN Compound at Qana, 18 April 1996 .....	16
5. MAKING THE MONITORING GROUP EFFECTIVE .....	24
6. RECOMMENDATIONS .....	26

Cover picture: Refugees sheltering in the UNIFIL compound at Qana before the Israeli attack on 18 April 1996 that killed 102 of them. [Picture by Najla Abu-Jahjah].

# ISRAEL/LEBANON

## UNLAWFUL KILLINGS DURING OPERATION "GRAPES OF WRATH"

### 1. INTRODUCTION

Since 1975, thousands of civilians have been killed in the fighting between Israel and various armed groups in Lebanon, the overwhelming majority of them as a result of Israeli attacks. The numbers involved and the brutal regularity of civilian casualties in over 20 years of conflict may contribute to the belief that civilian deaths are an "inevitable" consequence of this conflict, and create an almost casual acceptance of these deaths. It takes an event such as the attack on Qana -- the United Nations (UN) compound where over 100 civilians were killed on 18 April 1996 -- to shatter this complacency. But if the fighting continues or even escalates again, what guarantees are in place to ensure such deaths are avoided?

The "understanding" entered into by the warring parties at the conclusion of the most recent escalation in fighting in April 1996 includes commitments regarding the protection of civilian lives. But the mechanisms for its enforcement are weak and likely to fall victim to the political imperatives of the different parties involved. Moreover, the failure of both *Hizbullah* and Israel to acknowledge responsibility for civilian deaths and to take concrete steps to prevent their recurrence, suggest the commitments made might amount to little more than paper promises. While there is no doubt that a real solution can only be found in a just and lasting peace between all those involved in the conflict in southern Lebanon, so long as the conflict continues there is an urgent need for the warring parties to do their utmost to protect civilian lives. This is not simply a question of legal and moral obligation. For the civilians caught in the crossfire, it is a matter of life and death.

This report concentrates on the escalation in fighting which took place in April 1996, when Israel launched a major attack in Lebanon codenamed Operation "Grapes of Wrath". Over 150 civilians were killed during the fighting, all of them as a result of Israeli attacks. The report includes information gathered during trips to both Israel and Lebanon in April and May 1996. During these visits, Amnesty International delegates, who included a high-ranking military expert, met civilian and military authorities, including UN personnel, as well as victims and eye-witnesses. Following these visits, Amnesty International repeatedly sought further information from the Israeli authorities, in particular information concerning the specific incidents described in this report, but received no response. The main conclusion of this report is that both sides have, in violation of international law, been responsible for deliberately or indiscriminately targeting civilians.

Amnesty International takes no position on the conflict in south Lebanon, and does not attempt to assess the claims advanced by the warring parties justifying their use of military force. Amnesty International's concern in this situation, as in all others, is simply to demand that in waging this conflict the parties respect fully their obligations regarding the protection of civilian lives and the treatment of prisoners and others who are taking no active part in the hostilities, including wounded and captured

combatants.<sup>1</sup> These obligations are to be found in international treaties for the protection of human rights and those comprising the laws of war, as well as in rules that are part of customary international law.

## 2. "GRAPES OF WRATH": BACKGROUND

There has been a continuing conflict across the Israel-Lebanon border since the 1970s, with major Israeli military operations directed against Palestinian armed groups in 1978 and 1982 and against *Hizbullah* in 1993.

In the "Litani Operation" in March 1978, Israel took control of Lebanese territory south of the Litani river. An estimated 1,000 civilians were killed during the operation. On 19 March 1978 the UN Security Council passed two resolutions on Lebanon: resolution 425 which called on Israel to withdraw from all Lebanese territory; and resolution 426 which established the United Nations Interim Force in Lebanon (UNIFIL) "for the purpose of confirming the withdrawal of Israeli forces, restoring international peace and security and assisting the government of Lebanon in ensuring the return of its effective authority in the area". In June 1978 Israeli forces withdrew but remained in occupation of an area of Lebanese territory bordering Israel and usually referred to by Israel as its "security zone". In this area, Israeli forces have been assisted by a Lebanese militia of about 3,000 men known as the South Lebanon Army (SLA). This militia is trained, financed and otherwise controlled by Israel.

In June 1982 the Israeli Defence Forces (IDF) invaded Lebanon in a large-scale operation codenamed "Peace for Galilee". The Israeli forces reached as far as Beirut which was besieged and bombed for two months until Palestinian Liberation Organization forces agreed to leave the city. Some 18,000 people were reported killed and 30,000 injured during the invasion, the overwhelming majority of whom were civilians. Israeli forces occupied Beirut until July 1983 when they withdrew to the Awali river north of Sidon. The entire area between the Awali river and the Israel-Lebanon border remained under Israeli occupation until 1985 when the Israeli forces withdrew to the "security zone".

Between 1982 and 1985 Israeli forces in Lebanon were persistently attacked, mainly by Lebanese armed groups, including especially those emerging from the Shi'a community -- the largest community in south Lebanon. By 1985 two such groups were predominant: *Harakat Amal* (the Movement of Hope) founded in 1975 and led since 1980 by Nabih Berri, current Speaker of the Lebanese parliament; and *Hizbullah* (Party of God), founded in 1982 and led since 1992 by Shaykh Hasan Nasrallah. Relations between *Amal* and *Hizbullah* have often been characterized by rivalry, occasionally leading to armed clashes.

The Ta'if Agreement of September 1989, brokered by the Arab League, ended the Lebanese civil war; it provided for some constitutional reform and endorsed the Syrian military presence in Lebanon. In

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<sup>1</sup>Amnesty International opposes the imprisonment of people on account of their political, religious or other conscientiously held beliefs or on account of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status provided they have not used or advocated violence; demands prompt and fair trials for political prisoners; and opposes the death penalty, torture, extrajudicial executions and "disappearances" in all cases. In addition, the organization opposes the deliberate or indiscriminate killing of civilians in situations of conflict.

1991, following a decision of the Lebanese Government, all Lebanese armed groups were disarmed with the exception of *Hizbullah*, which disbanded its military structure in Beirut but kept that structure in place in south Lebanon to continue its conflict with Israel. Accordingly, *Hizbullah* has been able to conduct military activities against Israel's occupation of the "security zone". Since 1991, the fighting in south Lebanon has thus become primarily a confrontation between *Hizbullah* and Israel and its allied militia, the SLA.

On 25 July 1993, following the killing of seven Israeli soldiers in southern Lebanon, Israel launched Operation "Accountability" (known in Lebanon as the "Seven Day War") during which the IDF carried out their heaviest artillery and air attacks on targets in southern Lebanon since 1982. The declared aim of the operation was to eradicate the threat posed by *Hizbullah* and to force the civilian population north to Beirut so as to put pressure on the Lebanese Government to repress *Hizbullah*. More than 55 villages were severely damaged and 300,000 civilians displaced during the week-long Israeli assault. According to official Lebanese sources, 118 Lebanese civilians were killed and 500 injured (as well, one Lebanese soldier and eight *Hizbullah* combatants were killed). According to official Israeli sources, two Israeli civilians were killed and 24 were injured by Katyusha rockets launched by *Hizbullah*.<sup>2</sup> The fighting ended when an unwritten "understanding" was agreed to by the warring parties (brokered by the United States Government). Apparently, the 1993 "understanding" provided that *Hizbullah* combatants would not fire rockets at northern Israel, while Israel would not attack civilians or civilian targets in Lebanon.

The 1993 "understanding" did not put an end to civilian casualties. While much of the fighting was between *Hizbullah* combatants and IDF/SLA forces within the "security zone", retaliatory attacks continued involving Lebanese civilians outside the "security zone" and Israeli civilians in northern Israel.

Between January and March 1996 the fighting in south Lebanon caused the deaths of four Lebanese civilians, as well as two *Hizbullah* combatants, seven IDF soldiers and three SLA militiamen. On 8 April a roadside bomb killed a 14-year old Lebanese boy and wounded three of his playmates in the village of Bar'ashit north of the Israeli "security zone". Although the IDF denied responsibility for the attack, *Hizbullah* blamed Israel and retaliated by launching Katyusha rockets on northern Israel on 9 April which injured six Israeli civilians, one seriously. That same day, Israel responded by an attack on the village of Khirbat Salim in which two civilians were wounded. On 10 April an IDF soldier was killed and three others wounded in a *Hizbullah* attack on their outpost in the "security zone".

On 11 April 1996 Israel launched Operation "Grapes of Wrath" which lasted for 17 days. On the first few days of the operation the Israeli air force attacked targets in Beirut, for the first time since 1982. From 11 April, Israel started to use the SLA radio station to warn the inhabitants of various Lebanese villages and towns to evacuate "to save their lives". *Hizbullah* also issued similar warnings to civilians in northern Israel. Within the next few days, over 300,000 Lebanese as well as 30,000 Israelis were forced to flee their homes. From 13 April the Israeli navy blockaded the ports of Beirut, Sidon and Tyre. For the duration of the operation Israel maintained a steady barrage of fire from its artillery, air and naval

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<sup>2</sup>For a full discussion of Operation "Accountability" in 1993, and breaches of the laws of war by both sides which resulted in civilian deaths, see Human Rights Watch/Middle East and Human Rights Watch/Arms Project *Civilian Pawns: Laws of War Violations and the Use of Weapons on the Israel-Lebanon Border*, May 1996.

forces. Targets included roads and an electricity station north of Beirut. At the same time, throughout the operation, *Hizbullah* fired Katyusha rockets on populated areas of northern Israel on a daily basis. The operation ended after a new, written "understanding" was reached between the warring parties on 26 April. This "understanding" includes provisions for the protection of the civilians and establishes a Monitoring Group made up of the United States, France, Syria, Lebanon and Israel to supervise its implementation.

According to Israeli officials, during Operation "Grapes of Wrath", the IDF fired 25,132 artillery rounds and carried out 2,350 air sorties over Lebanon, about half of which involved attacking targets. Israeli officials also indicate that 746 Katyusha rockets were fired by *Hizbullah*, 533 of which were found in northern Israel and 70 in the "security zone". UNIFIL sources estimate the total number of Katyushas and mortar shells to have been up to 1,200, half of which were fired against northern Israel.

As a result of these attacks, according to Lebanese military records, 154 civilians were killed in Lebanon together with five military personnel, and 351 civilians and 11 military personnel wounded (although the precise number of wounded civilians is difficult to establish). Official Israeli sources indicate that 62 Israeli civilians and two soldiers were wounded. No Israelis were killed. Israeli sources put the number of *Hizbullah* members killed at 50, whereas *Hizbullah* says that they lost 14 men.

### 3. THE LAWS OF WAR

Not all civilian deaths in wartime are unlawful. In the euphemistic terms of military spokespersons, "collateral damage" is to be expected in war. But there are clear rules that set limits on the conduct of hostilities and in particular outlaw the use of certain means or methods of warfare. These rules are designed to protect -- to the maximum extent possible -- civilian lives. The rules include a prohibition on any direct attacks on civilians or civilian objects, including reprisals directed at such targets. But they also include prohibitions on certain types of attacks which, though ostensibly aimed at a legitimate military target, have an indiscriminate or disproportionate impact on civilians or civilian objects. Finally, the rules make clear the narrow circumstances in which civilians or civilian objects might lose their protection -- for example, when a civilian object is used for military purposes.

The fullest statement of these rules is in Additional Protocol 1 to the Geneva Conventions of 1949, relating to the Protection of Victims of International Armed Conflicts (Protocol 1). This Protocol, which was adopted in 1977, has been ratified by over 140 states, but the fundamental provisions of this Protocol, including for the most part those concerning the protection of the civilian population cited in this report, are generally considered to be part of customary international law and therefore binding on all states.<sup>3</sup>

#### 3.1 Prohibition of direct attacks against civilians

Article 48 of Protocol 1 sets out the "Basic rule" regarding the protection of civilian lives:

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<sup>3</sup>Of the states on the Monitoring Group, France, Israel, Lebanon and the United States are not parties to Protocol 1.

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“In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.”

This rule is often referred to as the principle of distinction. Article 51(2) of Protocol 1 spells out unambiguously that “The civilian population as such, as well as individual civilians, shall not be the object of attack”. Israeli civilian and military authorities have stressed that they accept the legitimacy of this principle, arguing that it is a crucial factor in all of their military training, preparations and operations. *Hizbullah*, while not questioning the principle of distinction *per se*, has openly stated that its Katyusha rocket attacks on Israel were aimed at civilians and were launched in response to Israeli attacks on Lebanese civilians (see section 4.2 below).

### **3.2 Prohibition of indiscriminate attacks**

In addition to prohibiting direct attacks on civilians, international law also prohibits indiscriminate attacks. In the language of Article 51(4) of Protocol 1, these are understood as attacks that “are not directed at a specific military objective” or, because of the weapons or methods of attack used, cannot be so directed. Attacks are also considered as indiscriminate “which may be expected to cause incidental loss of civilian life ... which would be excessive in relation to the concrete and direct military advantage anticipated.”

Indiscriminate attacks occur when armed forces disregard the principle of distinction and attack a military target without regard to the likely consequences for civilians. They might use weapons which are not capable of hitting a military target with precision -- either by their nature or as a result of the circumstances in which they are employed. Or their tactics or method of attack might show a disregard for civilian lives. There is evidence (see section 4.3 below) that the IDF carried out a number of indiscriminate attacks during Operation “Grapes of Wrath” where, in attacking what they alleged to be military targets, they killed many civilians.

### **3.3 Prohibition of reprisal attacks on civilian population**

As pointed out (in section 2 above), a defining feature of the conflict between Israel and *Hizbullah* has been the extent to which the attacks by one party leading to civilian deaths have been used by the other party to justify reprisal attacks on civilians. The reasoning appears to be that it is necessary to target civilians under the control of the opposing party, in the belief that it is only by doing so that one can ultimately ensure one’s own civilians are not hit again. Of course, in reality such a line of reasoning has led directly to repeated escalations in the conflict with the primary victims being civilians.

International law places a clear and unambiguous prohibition on reprisals aimed at civilians. Article 51(6) of Protocol 1 provides:

“Attacks against the civilian population or civilians by way of reprisals are prohibited.”

The reason for such a prohibition is only too vividly demonstrated in the history of the conflict across the Israel-Lebanon border -- rather than preventing civilian deaths, reprisals tend to undermine whatever tenuous protection civilians enjoy and create a vicious circle of attack and counter-attack with civilians being the victims. The law is clear. Civilian deaths on one side cannot be used to justify a reprisal attack against civilians on the other side. In this respect, *Hizbullah's* policy of retaliation against Israeli population centres is a clear breach of international law.

### 3.4 Prohibitions on using the civilian population as a shield

Throughout the conflict in Lebanon, Israel has repeatedly argued that the armed groups it has been fighting, including *Hizbullah*, use the civilian population as a shield from behind which they launch their attacks. The Israeli authorities argue that *Hizbullah* combatants take up firing positions in the close proximity of civilians and civilian objects, use civilian objects (such as houses) to store weaponry or munitions or to launch attacks, and use civilian vehicles as means of transportation. *Hizbullah* denies these allegations, although there is evidence indicating that *Hizbullah* combatants did launch attacks from close proximity to civilian objects (see section 4.3 below). Protocol 1 prohibits the use of such tactics; Article 51(7) provides:

“The presence or movements of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations.”

Further, Article 58(b) obliges parties to a conflict to avoid “to the maximum extent feasible ... locating military objectives within or near densely populated areas”.

The Israeli authorities further argue that they have a right to respond to attacks and that if civilians are killed it is because *Hizbullah* is using them as a shield. As will be discussed below (see section 4.3), this was the main explanation advanced for the deaths of over 100 civilians at the UN compound in Qana. However, when Protocol 1 was drafted, those involved, including military experts from many countries, were fully aware of the need to balance the protection of civilians against the demands of military necessity. To allow an armed force *carte blanche* to attack without regard for civilian lives simply on the basis that the civilians in question are being “used as shields”, would undermine efforts to protect them. For this reason, while prohibiting shielding tactics, international law also makes clear that use of such tactics does not provide the other side with a licence to kill civilians. Article 50(3) of Protocol 1 provides:

“The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.”

Furthermore, Article 51(8) makes clear that even if one side is shielding itself behind civilians, such a violation of international law does not “release the Parties to the conflict from their legal obligations with respect to the civilian population and civilians, including the obligation to take precautionary measures provided for in Article 57.” Such measures include refraining from launching an attack, and even

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cancelling an attack in progress, if such an attack may be expected to cause disproportionate loss of civilian life, and giving advance warning of an attack.

#### 4. VIOLATIONS OF THE LAWS OF WAR

##### 4.1 Warnings: To protect or to terrorize the civilian population?

A number of warnings were issued by the Israeli authorities to the inhabitants of towns, villages and areas in south Lebanon, indicating that civilians should leave the areas. Some were general warnings, others were directed at specific villages and gave specific times before which people were asked to leave. For the most part, these warnings were issued, in Arabic, over the "Voice of the South" (*Sawt al-Janub*), a radio operated by the SLA.

One of the warnings broadcast on 11 April said:

"The Israeli army will attack and hit any village that Katyusha rockets are fired from or its surroundings, as well as any place in which *Hizbullah* men operate. If *Hizbullah* men happen to be near anybody's house it will be hit."

Warnings made to specific villages on 12 April were similar to the following:

"We ask the inhabitants of Jibshit, Nabatiyya, Qulayla and al-Mansuri to leave their villages within a period up to 3:45 [pm] at the latest, because the Israeli army will bombard these places."

On 13 April the following warning was broadcast:

"Following the continuation of subversive activity from *Hizbullah*, the Israeli army will intensify its activities against the terrorist elements. After the warnings broadcast by the 'Voice of the South' to 45 villages, any presence in these villages will be regarded as subversive; that is, the subversive elements and whoever happens to be with them will be hit. Those who do not heed these warnings do so at their own responsibility and will put themselves at risk. The Israeli army calls on all the inhabitants who have not yet left to move immediately in order to prevent unintended casualties."

The IDF and the Israeli Government claim that warnings such as these were issued in order to ensure the protection of civilian lives.<sup>4</sup> The Lebanese authorities, and indeed many others (including commentators in Israel), argue that the primary purpose of the warnings was to create a massive humanitarian crisis, in order to pressure both the Lebanese and Syrian Governments into curbing the

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<sup>4</sup>See for example the statement made by the IDF in their *Communique* of 9 May concerning the attack on Qana: "In order to minimize civilian casualties, especially in light of *Hizbullah* practice to use civilians as cover, the IDF made public the launching of the operation ["Grapes of Wrath"], with the intention of giving the civilian population the opportunity to vacate the combat zone in advance."

activities of *Hizbullah* in southern Lebanon. Such an aim was actually made explicit by Israel during the 1993 Operation "Accountability". Certainly, the effect of the warnings in April 1996 as before was to panic hundreds of thousands of people into fleeing southern Lebanon. There is no doubt that this placed a tremendous burden on the Lebanese authorities and humanitarian agencies regarding the provision of accommodation and emergency relief supplies.

Article 51(2) of Protocol 1 provides:

"The civilian population as such, as well as individual civilians shall not be the object of attack. Acts or *threats of violence* the primary purpose of which is to spread terror among the civilian population are prohibited." (emphasis added)

Despite the claims made by the Israeli authorities, the nature and timing of the warnings given are difficult to reconcile with a genuine intention to protect civilian lives. The text of the warnings clearly shows an intent to threaten the civilian population as such (e.g. "any presence in these villages will be regarded as subversive"). In some cases the attacks commenced prior to the deadline given by the IDF in their warnings, such as the attack on the village of Sohmor in the western Beqaa' on 12 April. Further, many thousands of civilians were unable to leave despite their desire to do so -- old people, the sick, and those without transport faced particular difficulties. Others who could leave chose to remain in order to safeguard their property. Indeed, rather than enhance civilian protection, the use of such warnings seemed to diminish it because those who chose not to be threatened into leaving, or could not leave, were assumed by the IDF to be "subversives" and told that they would be "hit".

A few days after Operation "Grapes of Wrath" started, *Hizbullah* too broadcast warnings calling on the civilian population to leave and threatening those who remained behind. For example, on 17 April *Hizbullah* radio broadcast warnings in both English and Hebrew for residents in northern Israel to leave as it planned to continue bombing the area with rockets: "All inhabitants who stay in the settlements in the region will face the consequences", said the warning statement. Earlier, *Hizbullah* radio had quoted a "source" in the "Islamic Resistance" as threatening that *Hizbullah*

"... will turn the Zionist settlements in northern occupied Palestine into hell and will prevent any settler from returning to them as long as the south is being subjected to Zionist aggression .... [and called on] those remaining in the shelters [in northern Israel] not to leave them because they will be shelled continuously and no form of life will be allowed in them."

#### **4.2 Unlawful attacks on the civilian population by *Hizbullah***

Although *Hizbullah* is not itself a party to international treaties regarding the protection of civilians in times of conflict, it is nevertheless bound to observe certain basic principles embodied in these treaties. These principles include those regarding the treatment of civilians and persons who are *hors de combat*, as well as those concerning the conduct of hostilities.

While maintaining the focus of their military operation on IDF and SLA targets in the "security zone", *Hizbullah* told Amnesty International that since 1992 they have been launching attacks on

population centres in Israel in response to Israeli attacks on Lebanese civilians. In any case, the weapons systems used in these attacks -- Katyusha rockets -- do not, when fired at the distances normally employed by *Hizbullah*, allow for the degree of precision required to hit a specific military target.

On the eve of Operation "Grapes of Wrath", *Hizbullah* intensified its rocketing of northern Israel. On 9 April, following the bomb blast which killed the Lebanese boy in Bar'ashit, *Hizbullah* fired Katyusha rockets at northern Israel wounding civilians. The town of Qiryat Shemona was particularly vulnerable to the Katyusha attacks. Most of its inhabitants left or were evacuated by the Israeli authorities in the first days of the April confrontation, and those who remained lived in shelters. Throughout the fighting in April, *Hizbullah* continued regularly to fire Katyusha rockets on Israel, most of which fell on Qiryat Shemona and other parts of northern Galilee. On 12 April, after the IDF attack on targets in Beirut, the leader of *Hizbullah* Shaykh Hasan Nasrallah said: "Our response for the bombing of Beirut will not be in the north of Palestine only. It will occur elsewhere, anywhere". On 14 April 1996, a *Hizbullah* spokesperson told the press: "we are firing dozens of rockets into Zionist settlements".

*Hizbullah* rocket attacks on populated areas in northern Israel are a clear breach of international

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nding", they will no longer launch such attacks but will submit a complaint to the Monitoring Group via the Lebanese Government.



Israeli medics and Air Force personnel carry a woman wounded in Qiryat Shemona to a helicopter on 9 April 1996 (© Reuters).

### 4.3 Unlawful killings by the IDF during Operation "Grapes of Wrath"

The following three cases are examples of the unlawful killing of civilians by the IDF during Operation "Grapes of Wrath". Amnesty International was able to gather detailed information concerning these three cases. Other allegations concerning violations of the laws of war were reported to the organization but either it was not possible to gather sufficient information or the information available did not substantiate such allegations.

**!      *Attack on ambulance carrying civilians, 13 April 1996***

On 13 April 1996 at about 1.40pm an IDF helicopter rocketed a vehicle carrying 13 civilians fleeing the village of al-Mansuri, killing two women and four young girls. The attack happened near the Fijian Battalion UN checkpoint 1-23 south of Tyre. The vehicle was a grey Volvo station wagon with a blue flashing light and a siren. A clear red crescent was painted on the hood, and the word "ambulance" was written in Arabic on the hood and on both sides of the car. Also written were the words *al-waqf al-islami- fil-Mansuri*, Islamic Endowment in al-Mansuri.

Video footage taken by reporters at the scene shows the vehicle approaching the checkpoint at a moderate speed, with its blue flashing light and siren on, and the car packed with women and children. Other vehicles crowded with civilians, including a pick-up truck and a tractor, were travelling in convoy with the Volvo. Eye-witnesses saw two IDF helicopters (most probably "Apache" attack helicopters) hovering low over the area of the checkpoint. As soon as the vehicle passed the checkpoint heading north, a missile fired by one of the helicopters (most probably a laser-guided "Hellfire" air-to-surface missile), hit the back of the car or exploded just behind it ripping through its back door. The vehicle then crashed into a house just off the road. According to 'Abbas 'Ali Jiha, the driver:

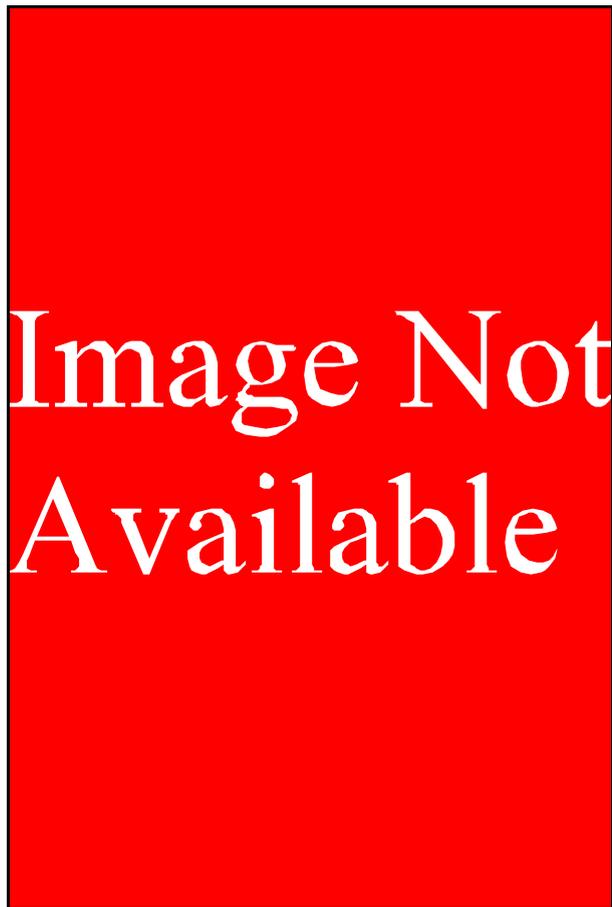
"...the ambulance was hit in the back and swung off the street. I ran from the car carrying two of my children, Mahdi [who survived] and Mariam [who died], and told the journalists that there were dead and wounded in the car."

Inside the car two women, Muna Habib Shuwayh, 28, the wife of 'Abbas Jiha, and Nawkha Ahmad al-'Uqla, 50 (a neighbour of 'Abbas Jiha) were killed. Also killed were four girls: Zeinab, 10, Hanan, 5, and Mariam, 2½ months, (all daughters of 'Abbas Jiha) and Hudu' Fadi Khalid, 11 (Nawkha al-'Uqla's grand-daughter). Five other children in the car 'Abbas Jiha and his cousin 'Ali 'Ammar survived.

UN soldiers and other eye-witnesses who were at the scene immediately after the car was hit said that there were no weapons or any other type of military equipment in the car, only clothes and some food supplies. The video footage of the dead and wounded in the car moments after the attack supports these statements. Amnesty International has no evidence to indicate that the driver or anyone else in the car had any connection with *Hizbullah*. 'Abbas Jiha, an agricultural worker who had emigrated to Germany but returned to al-Mansuri some 15 months before Operation "Grapes of Wrath", told Amnesty International that he was not a member of *Hizbullah* and that he was not involved in any military activity. He maintained that after the beginning of the Israeli operation he volunteered to drive the vehicle for emergency purposes such as bringing medical and food supplies to al-Mansuri, which was under sporadic bombardment. On 13 April, the day of the attack, he decided to use the vehicle to evacuate his family

from the village after hearing of the IDF warnings issued on SLA radio that al-Mansuri and other villages would be attacked.

The *kashafat al-risalah al-islamiyya*, the Islamic Scouts charity organisation, affiliated to *Amal*, runs a network of ambulances and medical services in southern Lebanon and assists privately-operated ambulances by providing medical supplies and training volunteer first aiders. The vehicle itself was owned by the village community. In normal times it was parked near the mayor's house who also held the keys.



'Abbas Jiha's two surviving sons Mahdi and 'Ali carrying photos of their mother Muna and sister Zeinab who were killed in the attack on the ambulance on 13 April 1996.

When Operation "Grapes of Wrath" began, the Islamic Scouts operation centre in Tyre took control of the al-Mansuri ambulance by supplying it with one of their regular drivers and fuel and despatching it for various humanitarian purposes. On the day of the attack the vehicle had travelled twice between Tyre and al-Mansuri. In its last trip to al-Mansuri on 13 April, 'Abbas Jiha drove the car to the village to evacuate his family.

Under international law, medical transport vehicles marked with designated symbols (including the Red Cross and Red Crescent) are protected against attack unless they are used to commit, "outside their humanitarian function, acts harmful to the enemy" (Article 13, Protocol 1). The circumstances surrounding the attack and IDF statements clearly suggest that the IDF wanted to hit this particular vehicle -- it was not a mistake. IDF officials told Amnesty International delegates that at the time the vehicle was attacked it was being used by a "*Hizbullah* terrorist", and that it was a "rescue vehicle" and not a properly marked ambulance. Public statements made by the IDF shortly after the attack refer to "a vehicle belonging to a *Hizbullah* terrorist", and continue: "If other individuals were hit during the attack, they had been used by the *Hizbullah* as a cover for the *Hizbullah* activities ... to the best of our knowledge the terrorist was hit."

The IDF has produced no evidence to show that the vehicle they hit, or any other similar vehicle for that matter, had at any time been used by *Hizbullah* for military purposes. Independent observers interviewed by Amnesty International did suggest that *Hizbullah* may have misused ambulances, but did not provide specific examples to corroborate such suspicions. In any case, this vehicle was certainly engaged in legitimate humanitarian activities at the time it was hit and was travelling in a convoy of civilian

vehicles away from, and not into, the area that the IDF had warned civilians to evacuate. Moreover, the Israeli helicopter crew must, at the time of the attack, have seen the ambulance markings on the vehicle. In attacking the vehicle, the IDF showed a blatant disregard for civilian lives and violated international law.

**!      *Attack on house in Upper Nabatiyya, 18 April 1996***

On 18 April 1996 at around 6.30 am nine people were killed, including a mother, Fawzia Khawaja 'Abed, 40, seven of her children (Lulu, 12, Hoda, 7, Nada, 4, Murtada, 3, Nur, a baby only a few days' old, and their two brothers Muhammad, 11, and 'Ali, 8) and a cousin, Ahmad 'Ali Basal, 17. Israeli warplanes completely demolished the two-storey house in which they were sleeping in Upper Nabatiyya, burying them in rubble. Two others, Ibrahim, 15, and his sister Nujud, 18, were pulled from the rubble alive and survived. The planes returned and hit a neighbouring house -- no one was hurt. At about the same time, helicopters rocketed another house inhabited by a member of the 'Abed family, Ghunwa Hasan 'Abed and her husband 'Abbas Basal (whose brother died with the rest of the 'Abed family in the other house). The house was damaged but no one was hurt. According to one of the survivors, Nujud:

“At about 5am I was awakened by the sound of planes flying over. This continued until after 6am. Then suddenly I felt a strong heat and falling rubble and bodies around me.”

Fawzia 'Abed

Lulu 'Abed

Hoda 'Abed

Nada 'Abed

Murtada 'Abed

Muhammad 'Abed'

'Ali 'Abed

Ahmad 'Ali Basal

Eight of the nine people killed in the attack on a house in Upper Nabatiyya on 18 April 1996

Upper Nabatiyya is located near a stretch of hills that falls within the "security zone". IDF/SLA positions are clearly visible overlooking the houses of Upper Nabatiyya, and the area is particularly vulnerable to bombardments. The owner of the two-storey house, 'Ali Jawad Mally, had left Nabatiyya after the start of Operation "Grapes of Wrath" but had left the keys of his house with neighbours to use for emergency shelter. The house was thought to be safer than other houses because of its location. The 'Abed family were one of the families who on occasion sought shelter in the house, as their own house

was in full view of an IDF/SLA position. The family went to the Mally house on the night of 17 April because of shelling earlier in the evening.

In a statement made shortly afterwards, the IDF indicated that the attack was in response to a *Hizbullah* attack on an IDF post in the "security zone":

"Immediately after the operation, the terrorists fled to the home of a *Hizbullah* activist on outskirts of Nabatiyya ....IAF [Israeli Air Force] helicopters sent to the scene were fired upon by anti-aircraft fire from the area around the house to which the terrorists fled. IAF planes fired at and hit the house."

The then Israeli Prime Minister, Shimon Peres, responded to the attack by indicating that civilians should have heeded warnings to leave the area. He was quoted as saying:

"I'm surprised that civilians were still in Nabatiyya ... [it] should have been empty of civilians. We don't just attack houses with no reason," he said. "We fire only on houses from which *Hizbullah* is firing rockets".

Amnesty International was not able to confirm whether or not *Hizbullah* combatants had fired rockets or other weapons from a position near the house prior to the attack.

It seems clear that the three houses were hit as a result of deliberate and direct attacks on those buildings. The air attacks were carried out in a precise manner. Amnesty International is not aware of any evidence linking the inhabitants of the dwellings which were hit with *Hizbullah*, nor that the dwellings were used by *Hizbullah* for the purpose of storing military weaponry or materiel. The owner of the demolished house told Amnesty International that he was a member of the *Amal* movement, but that for the last nine years he had not been politically active. He emphasised that his house was never used for military purposes.

It might be that *Hizbullah* combatants did fire rockets or mortars from a position near the houses (although such positions are likely to have been exposed to observation from IDF/SLA positions above Nabatiyya). But there is no evidence that, if they did so, they took shelter in the houses which were hit. The house was completely destroyed and there is no evidence that anyone other than the nine dead and

the two survivors were found in the rubble -- and the Israeli authorities have not suggested otherwise. Moreover, the houses hit were clearly civilian objects and even



The demolished house in Upper Nabatiyya in which nine civilians were killed

if, as alleged by the IDF, *Hizbullah* combatants ran into the houses, this would not in itself justify such an attack. It might be, as indicated by then Prime Minister Peres' comments, that the decision to attack the house was based on the assumption that civilians had left the area. Such an assumption can only indicate a blatant disregard for the need to maintain the principle of distinction at all times.

**!      *Attack on UN Compound at Qana, 18 April 1996***

The headquarters compound of the Fijian battalion of UNIFIL in Qana was attacked by IDF artillery shortly after 2pm on 18 April. At the time, there were over 800 Lebanese civilians inside the compound; 102 of them were killed and hundreds were wounded. In addition, four UNIFIL personnel were wounded.

Eye-witness accounts and television pictures of the attack and resulting devastation shocked people around the world. The UN Secretary-General, Boutros Boutros-Ghali, immediately sent his Military Adviser to "investigate the incident and to identify steps that could be taken to prevent a recurrence". The resulting report of Major-General Franklin van Kappen, formally transmitted to the UN Security Council on 7 May 1996, concluded:

"While the possibility cannot be ruled out completely, it is unlikely that the shelling of the United Nations compound was the result of gross technical and/or procedural errors."

The Israeli Government, the IDF and the United States Government all rejected the findings of the UN report. The then Israeli Prime Minister, Shimon Peres, was reported to have said that the conclusions of the UN report were "scandalous". A spokesperson for the United States' Department of State was quoted on 7 May as saying: "We are disturbed that [Major-General van Kappen] chose to draw unjustified conclusions about this incident that can only polarise the situation rather than to draw practical lessons to prevent its recurrence."

A *Communique* issued by the IDF on 9 May 1996 stated that the shelling of the UN compound was a result of mistakes made in launching an artillery attack to rescue "an IDF force" which "had come under effective life-threatening mortar fire" (the mortar in question being located near the UN compound). The *Communique* stressed that IDF operational orders preclude attacks against certain targets including civilians and "United Nations personnel and bases". It concluded, "any attempt to claim that the extremely unfortunate results of the Qana incident were anything but accidental, as implied by the UN report, is totally unfounded."

Amnesty International delegates, including a high-ranking military adviser, were able to visit Qana, inspect the compound and surrounding area and interview extensively UNIFIL personnel and civilians who were in the compound at the time of the attack. The data collected was further analysed by additional experts and specific questions put to the Israeli authorities, who did not respond.

On the basis of all the information available, Amnesty International believes that the IDF intentionally attacked the UN compound, although the motives for doing so remain unclear. The IDF have failed to substantiate their claim that the attack was a mistake. Even if they were to do so they would still bear responsibility for killing so many civilians by taking the risk to launch an attack so close to the UN compound.

This conclusion is based on a number of facts (set out below in detail), including the precision and reliability of the IDF's "target acquisition" systems; the timing of the attack; and the sequence, type and dispersion pattern of the shells fired. Taken together, these facts strongly suggest that the bombardment of the UN compound was not the result of an "artillery scatter" of stray shells which overshot the *Hizbullah* mortar, as claimed by the IDF, but was the result of a separate barrage of shells aimed at the compound itself.

Amnesty International cannot establish with certainty whether or not the relevant IDF personnel knew that over 800 Lebanese civilians were sheltering in the UN compound at the time it was attacked. However, even if the IDF did not have specific information regarding civilians sheltering there, the general information it did possess concerning civilians in UN compounds -- in addition to Israel's recognition that UN positions as such are not legitimate targets -- should have been sufficient to prevent such an attack. The fact that the attack proceeded can only indicate a callous disregard for the protection of civilian lives and therefore a clear breach of the laws of war's prohibitions on directly or indiscriminately targeting civilians.

It is also clear, based on the available information, that *Hizbullah* combatants fired a mortar from a position within 200 metres of the periphery of the UN compound. All indications are that they were firing at an IDF patrol who had infiltrated north of the "security zone" and had apparently been laying mines. The intention of the *Hizbullah* combatants in choosing that location for the mortar is unclear; it might have been to shield themselves against an IDF counter-attack in the belief that the UN compound would be too close for the IDF to respond. Even if this was not the intention of the *Hizbullah* combatants, by taking up positions where they did they clearly were reckless as to the consequences this might have for the civilians in the immediate area. In either case, this is a clear breach of the laws of war's prohibitions on using the civilian population as a shield. However, *Hizbullah's* action in no way justifies the IDF attack on the compound.

The following facts emerge from Amnesty International's investigation of the incident, drawing heavily on the UN as well as the IDF account of what happened (as set out in their *Communique* of 9 May):

- (a) Prior to the incident, between noon and 2pm on 18 April, *Hizbullah* fighters fired two or three rockets from a location 350 metres south-east of the UN compound, and four or five rockets from a position 600 metres south-east of the UN compound.
- (b) About 15 minutes before the shelling of the UN compound, three *Hizbullah* fighters fired between five and eight rounds of mortar at an Israeli patrol from a location about 200 metres south-west of the compound. UNIFIL soldiers told Amnesty International delegates that the mortar crew came under Israeli fire while they were still repositioning the mortar, and only entered the UN compound (at least some of them, unarmed, looking for their families) after the shelling on the compound had ended. A few days earlier a UNIFIL soldier had been shot by *Hizbullah* fighters when he tried to prevent them from firing rockets from near the UN compound.

Diagram from Major-General Franklin van Kappen's report to the Secretary-General of the UN Boutros Boutros-Ghali dated 7 May 1996 (S/1996/337)

- (c) The IDF shelling (from a battery equipped with M-109A2, 155mm guns) started at 2.07pm, 15 minutes after the identification of the target, an unusually long time for the IDF to attack a target which constitutes an immediate threat for one of their patrols. An IDF artillery response to a Katyusha launching should take on average five minutes. During the elapsed time there were consultations between the artillery battery commander and the IDF's Northern Command headquarters. According to the IDF, these consultations included whether or not to attack a target so close to a UNIFIL compound. No shell warning was received by UNIFIL during the 15 minutes leading up to the attack (that warning came later, after the attack had begun and after UNIFIL contacted the IDF asking that the shelling be stopped).
- (d) Eye-witnesses consistently maintain that at the beginning of the IDF attack all artillery shells were falling in the vicinity of the *Hizbullah* mortar position, and only later on, but without any noticeable break, the shells started impacting in the compound itself. This testimony corresponds with the two distinctly separated dispersion patterns of 17 shell impacts identified in the vicinity of the mortar position and another 19 shell impacts inside and around the UNIFIL compound -- apparently the result of two separate barrages.
- (e) Altogether there were 36 shell impacts in the Qana area (see diagram from the UN report): 17 near the mortar position and 19 inside and around the compound. The southernmost cluster of 17 impacts in the vicinity of the mortar position fits into a box of some 150m (along the longitudinal axis) by 55m. The dispersion pattern of this cluster suggests it was a result of converging fire, carefully prepared in the elapsed 15 minutes. The northernmost cluster of 19 shells in and around the UNIFIL camp fits into a larger box of some 240m (along the longitudinal axis) by 170m -- which could be reduced to 100m if one concludes that the five westernmost impacts were fired by one gun which was not carefully aligned. The centre point of impacts in this cluster of shells is 250m from the centre point of the southernmost box. All of this indicates that the impacts in the UN compound were the result of a separate barrage, requiring a deliberate decision.
- (f) The IDF argues that it made two mistakes in identifying the coordinates of the UN base when ordering artillery fire and, as a result, "... while IDF headquarters believed the UN base to be located some 350 metres from the target point, in fact the outer perimeter of the base was only some 180 metres distant." But, even if this is true, the standard dispersion pattern (for this weapons system, assuming a distance of 15,500 metres) suggests only 4% of the total number of shells fired would land between 135 and 180 metres from the target, or, in other words, that no more than two shells would have impacted within a distance of 45 metres from the outside periphery of the UN compound. The actual dispersion pattern shows 19 shells -- more than 50% of the total fired -- landed in or around the UN compound. This also suggests that the shells which landed in the compound were the result of a separate barrage.

- (g) It is difficult to determine the exact number of different types of fuses used in the shells fired. Both proximity fused shells (which explode several metres above the ground sending shrapnel downwards and outwards as a means of killing a large number of people) and impact fused shells (which explode on impact) were fired, according to the IDF in a random pattern. However, the UN report showed a distinct difference in numbers of proximity fuses used in the first southernmost cluster (5%) and the second northernmost cluster (almost 50%). The report states: "Almost all the proximity fuses were used in the area of the United Nations compound". Again, this points to the impacts in the UN compound being the result of a separate barrage, and one in which it was decided to use a greater number of proximity fused shells.
- (h) An Israeli "drone" (unmanned, remote controlled reconnaissance aircraft) and two helicopters were present in the area around the time of the attack, a fact eventually confirmed by the IDF after repeated initial denials (the presence in the area of the "drone" and at least one helicopter was documented by video footage taken by a member of another UNIFIL position overlooking Qana). The role of these aircraft in the bombardment, if any, is unclear. The IDF maintains that the "drone" was not observing the UN compound before or during the attack and that the helicopters only arrived in the area after the shelling. The IDF also claims that the aircraft were not used earlier to attack the mortar crew due to weather conditions .

The question of whether the IDF knew about the presence of civilians in the UN compound or not is a key point of dispute. The IDF maintains that it was not aware at the time of the shelling that Lebanese civilians had taken refuge in the Qana compound. UNIFIL has emphasised that they had informed the IDF several times from the beginning of the operation that there were 6000-7000 Lebanese refugees sheltering in UN compounds in southern Lebanon. This information was also reported in the Lebanese and international press, quoting official UNIFIL sources, on several occasions. It is unclear why the many forms of intelligence-gathering available to the IDF failed to detect the presence of so many civilians in the compound, as asserted by the IDF. The IDF must have had knowledge of, or should have assumed, that an unspecified but probably considerable number of refugees were in the UNIFIL compound.

It should be pointed out that other UNIFIL compounds and locations were hit during Operation "Grapes of Wrath". According to UNIFIL, there were 270 occasions during the operation when UNIFIL positions (including convoys and vehicles) came under "close fire" by the IDF. This figure includes IDF artillery and air attacks. There were also 15 occasions when they came under "close fire" by *Hizbullah*.

For example, according to UNIFIL sources in an incident on 17 April (the day before Qana was attacked) when another UN compound (UN Position 5-18 of the Nepalese Battalion, at the village of Majdal Zun) came under artillery fire from the IDF. Eight shells landed directly inside the compound (including smoke, impact fused and proximity fused shells) causing extensive damage to buildings but not causing any injuries. There were Lebanese civilians in this compound at the time of the attack but they took shelter along with UN personnel when the attack commenced. No *Hizbullah* activity was reported in the area prior to the attack, and no shell warning was received by UNIFIL. This UN position is clearly visible from IDF/SLA positions.

In an earlier incident on 9 April, checkpoint I-23 south of Tyre was hit by mortar fire from an IDF/SLA position. According to UNIFIL sources, *Hizbullah* fighters had fired 12 Katyusha rockets from a mobile truck-mounted multiple launching system positioned in an orchard some 400 metres north of their base (apparently, this site had been used in the past). The IDF/SLA forces responded after 5-6 minutes with approximately 20 rounds of mortar. One of the first shells fell exactly on the Katyusha launching site (Amnesty International delegates observed the impact on the ground), but two of the subsequent ones landed inside the UN checkpoint compound and another landed on the road just outside the compound. UNIFIL personnel at the checkpoint then fired a red flare to signal that their position was being hit, at which point the fire shifted northwards.

The IDF has maintained that it was a "policy" of *Hizbullah* to fire rockets and mortars from close to UN positions, and made public the text of a letter sent to UNIFIL on 15 April identifying 19 incidents in which *Hizbullah* had taken up firing positions within 200 metres of a UN position. The IDF has indicated that 15 further such incidents occurred until the end of Operation "Grapes of Wrath". UNIFIL has informed Amnesty International that in examining the 19 incidents in the IDF's letter of 15 April, "in most cases" they disagreed with the IDF's view that the *Hizbullah* positions were within 200 metres of UN locations: "*Hizbullah* fire was usually from considerably further away than the IDF alleged, in some cases as far as one kilometre from the nearest UNIFIL post."

### **C The IDF Inquiry into Qana**

The Israeli Government launched an inquiry into the events at Qana. This inquiry was conducted by Brigadier-General Dan Harel, Chief of Artillery of the IDF. Amnesty International requested but has not received a copy of the full report of that inquiry, the conclusions of which were made public on 5 May. Earlier, the IDF Chief of Staff Amnon Lifkin-Shahak was quoted as saying:

"After all our investigations I have found no error on the part of those who ordered the fire for the action was justified on the basis of the information we had. ...The blame lays first and foremost with the *Hizbullah* who chose to attack our forces from the proximity of the UN camp where Lebanese civilians were sheltering."

The IDF inquiry concluded that the shells landed on the UN compound as a result of mistakes made in plotting the exact coordinates of the UN compound, which in turn led those involved in ordering the attack on the *Hizbullah* mortar position to believe that the UN compound was further away from the target site than it actually was. However, as indicated above, based on the information available to Amnesty International, even if it is true that the IDF had incorrectly fixed the coordinates of the UN compound when ordering the attack, this does not explain the pattern, number or type of shells which impacted on the UN compound.

Amnesty International believes that the inquiry ordered by the Israeli Government into the attack on Qana was wholly inadequate. While it is clear that any inquiry into such an attack should draw on military advice and expertise, it is doubtful whether giving sole responsibility for conducting the inquiry to a serving officer in the IDF is likely to result in a full and impartial investigation. This is particularly true when the officer in question has command responsibility over the artillery -- the very forces whose conduct is to be investigated. Moreover, the inquiry reported before the full results of the UN investigation

were made available, an investigation which, unlike the Israeli inquiry, was able to observe first-hand the compound at Qana. Also, the Israeli inquiry did not seek additional information from UNIFIL nor attempt to interview UNIFIL personnel who were present at Qana when the compound came under attack.

Amnesty International believes that the Israeli Government should, as a matter of priority, establish a proper judicial inquiry into the attack on the UN compound at Qana. The status and tenure of those conducting the inquiry should give the strongest possible guarantees of their competence, impartiality and independence. This inquiry should take advantage of the results of the UN investigation and interview UNIFIL personnel who were present at Qana when the UN compound was attacked. The inquiry should result in a full public report, which clearly identifies those responsible for the attack and makes recommendations regarding awarding compensation and preventing such attacks in the future.

This inquiry should also be empowered to investigate the other incidents described in this report where IDF attacks led to the unlawful killing of civilians. Those responsible for the unlawful killing of civilians should be brought to justice.

## 5. MAKING THE MONITORING GROUP EFFECTIVE

Operation "Grapes of Wrath" concluded when, through the intervention of the United States and France among others, a new "understanding" was reached between the various parties involved. Unlike the 1993 agreement, on this occasion there was a written text that was released to the public. The terms of the "understanding" include prohibitions on attacks which lead to civilian deaths. In particular, the "two parties commit to ensuring that under no circumstances will civilians be the target of attack and that civilian populated areas ... will not be used as launching grounds for attacks." Israel further agreed that its forces "will not fire any kind of weapon at civilians or civilian targets in Lebanon", and *Hizbullah* agreed "not [to] carry out attacks by Katyusha rockets or by any kind of weapon into Israel."

The "understanding" is a step forward, in that it gives explicit recognition to the need to protect civilian lives. However, it is important to stress that in making these commitments the parties are simply agreeing to respect certain obligations which are in any case already binding upon them. Moreover, in doing so they have neglected to include reference to other obligations; in particular, the agreement does not explicitly indicate that reprisals and indiscriminate attacks against civilians are prohibited. The "understanding" also includes the following point:

“Without violating this understanding, nothing herein shall preclude any party from exercising the right of self-defence.”

The language used appears to allow the belligerents the right to ignore prohibitions on attacking civilians in situations where they can invoke the "right of self-defence". On many occasions in the past, the Israeli Government has insisted it has a right to respond to attacks on its territory, and has used the argument of

self-defence to justify civilian casualties.<sup>5</sup> This provision could give the parties a green light to ignore prohibitions on attacking civilians whenever they determine it is a matter of self-defence. The self-defence provision appears in conflict with the laws of war, which apply *in all circumstances*, regardless of the motives of the belligerents or of whether they are attacking or defending.

The shortcomings in the "understanding" are further exacerbated by the mechanism established to monitor its implementation. The Monitoring Group established in the "understanding" consists of the United States, France, Syria, Lebanon and Israel and is assigned the task of "monitoring the application of the understanding"; a party claiming a violation of the "understanding" (including an alleged attack on civilians) must submit a complaint to the Monitoring Group within 24 hours. The "understanding" left it to the Monitoring Group itself to work out its functions and procedures. A number of meetings took place among the five countries in Washington in May 1996 for this purpose but these discussions did not lead to a final agreement and, as of the beginning of July, the parties had still not decided on all issues concerning the functioning of the Monitoring Group.<sup>6</sup>

In the meantime, since Operation "Grapes of Wrath" ended and as of the beginning of July, there have already been over 25 incidents in southern Lebanon, in three of which civilians have been killed or wounded and, so far as Amnesty International is aware, the Monitoring Group has not undertaken any investigations to establish responsibility. Moreover, it is feared that the Monitoring Group will not report publicly and will operate in a secretive manner. The failure to get the group functioning, and indications that this is a result of political disagreements, strongly suggest that it will be an ineffective body in fact-finding and ensuring that the warring parties live up to their commitments, especially as regards the protection of civilian lives.

Effective fact-finding requires a truly objective and impartial body that has the necessary authority, autonomy and expertise to make clear decisions on the complaints it receives. The body should be composed of experts in the laws of war since such laws must be the essential framework for its investigations. Given this, it is disappointing that the parties involved have chosen to bypass existing international fact-finding bodies, that do have the requisite degree of authority, autonomy and expertise.

Before the final details of the Monitoring Group are worked out, Amnesty International is urging all five governments to consider calling upon the services of the International Fact-Finding Commission established in Article 90 of Protocol 1 to the Geneva Conventions of 1949. This Commission is composed

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<sup>5</sup>For example, a statement from the Israeli Ministry of Foreign Affairs on 18 April regarding the shelling of Qana said: "Israel remains firmly resolved to respond to any acts of aggression which Hizbullah may undertake against it. The right of self-defence is an inalienable one which is recognized by the UN Charter .... The IDF as a matter of principle and in accordance with its ethical commitments, does not target civilians. However, our forces will return fire if fired upon."

<sup>6</sup>It was reported that agreement had been reached to establish the headquarters of the group in Cyprus with investigators based in Naqura in southern Lebanon (where the UNIFIL headquarters is located), and that the chairing of the group will be shared on a rotating basis by the US and France. It was also reported that some agreement had been reached on the composition of the group's investigative teams.

of "fifteen members of high moral standing and acknowledged impartiality" and is competent to "enquire into any facts alleged to be a grave breach as defined in the Conventions [the 1949 Geneva Conventions] and this Protocol or other serious violation of the Conventions or of this Protocol". This would include all matters related to direct or indiscriminate attacks on civilians, reprisal attacks on civilians and using the civilian population as shields.<sup>7</sup> The Commission is based in Berne, Switzerland, and the Swiss Government (in its capacity as the depository of the Geneva Conventions and Protocols) acts as the secretariat for the Commission. Its members include legal and military experts, judges and medical doctors drawn from all regions of the world.

The International Fact-Finding Commission might be charged with investigating and reporting its findings of fact, as well as making recommendations, on complaints received by the Monitoring Group where the substance of the claim relates to an alleged breach of the laws of war and, in particular, where it is alleged that there has been an attack leading to the unlawful killing of civilians.

## 6. RECOMMENDATIONS

Too many civilians have already been killed as a result of the conflict in south Lebanon. The civilian deaths as a result of Operation "Grapes of Wrath", including those discussed in this report, must act as a powerful reminder to the warring parties and other states with influence in the region of the need to do everything possible to protect civilians.

1. In addition to the commitments made in the "understanding", both the Israeli Government and *Hizbullah* should publicly commit themselves to fully respecting the laws of war. In particular, they should renounce direct attacks on civilian targets or indiscriminate attacks in all circumstances, whether or not in reprisal, and should take measures to ensure that the forces under their command do not carry out such attacks. The Lebanese Government should use its authority to ensure that *Hizbullah* respects such commitments.
2. The Israeli Government should establish a judicial, public, inquiry into the killing of civilians by the IDF during Operation "Grapes of Wrath". Those responsible for the unlawful killings of civilians should be brought to justice and the victims' families offered compensation. The inquiry should also review the IDF's operational guidelines for implementing the principle of distinction and make recommendations to prevent unlawful killings in the future.
3. The states represented on the Monitoring Group should call on the services of the International Fact-Finding Commission established under Article 90 of Protocol 1 to assist in investigating complaints alleging a breach of the laws of war.

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<sup>7</sup>Although France, Israel, Lebanon and the US are not parties to Protocol 1, Article 90(2)(d) allows for any matter to be referred to the Commission provided all the parties to the conflict agree to refer the matter, regardless of whether those parties have ratified the Protocol.

Finally, it should be pointed out that both Israel and *Hizbullah* depend on other states for the sale or transfer of weapons and munitions which are being used in the conflict. In many cases, such as those described in this report, these weapons and munitions are then used in a manner which results in the unlawful killing of civilians.

4. Those states who either sell or transfer military equipment to Israel or *Hizbullah* should demand effective and enforceable guarantees that such equipment will not be used in a manner that leads to the unlawful killing of civilians.