

**VIOLATIONS BY ISRAEL OF THE RIGHT TO LIFE
OF CHILDREN IN LEBANON**

Presented to the

Committee on the Rights of the Child

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JURISDICTION OF THE COMMITTEE

This Report directs the attention of the Committee on the Rights of the Child ("Committee") to gross violations by Israel of the right to life of children in Lebanon. In its report to the Committee in 2001, Israel did not mention its acts of violence against children in Lebanon. However, since its ratification of the Convention on the Rights of the Child ("Convention"), Israel has arbitrarily deprived children in Lebanon of their lives on a large scale, in violation of Article 6 of the Convention.

Some of the acts recounted in this Report were carried out in the territory which Israel occupied in Lebanon beginning in 1978, and from which it substantially withdrew in 2000. Some of the acts recounted involved perpetrators located in Israel's zone of occupation, or in Israel, but the victims were located in areas of Lebanon outside Israel's zone of occupation. Still other acts recounted involved both action and results in areas of Lebanon outside Israel's zone of occupation. In all instances, the perpetrators were members of the Israel Defense Force ("IDF") acting in the course of their duties, and hence, persons for whose acts Israel bears responsibility under the Convention.

Israel's zone of occupation was regarded by the international community as being under its belligerent occupation. Israel performed substantial governmental functions while in occupation. Specifically, Israel controlled the entry of persons into the zone. It operated penal facilities in the zone. It performed civil functions and maintained a security service.

Under Article 6, "States Parties recognize that every child has the inherent right to life." That proposition is quite general in scope. Article 6 neither states nor implies any territorial limitation. Article 2 requires States Parties to "respect and ensure" the right to life of children. At a minimum, Article 2 requires States Parties to refrain from killing children. This obligation, according to Article 2, runs to all children within the jurisdiction of a State Party. Article 2 thus contains no limitation as to territory. A state's "jurisdiction," as applied to acts of violence, includes any territory in which a state acts, or in which the impact of its act is actualized.

That a state's obligations to the physical integrity of individuals are not territorially limited has been determined by the Human Rights Committee in its application of the International Covenant on Civil and Political Rights. For instance, a petitioner complained against Uruguay that Uruguayan police had entered Argentina, where they unlawfully detained and physically mistreated her husband. The Human Rights Committee found Uruguay responsible under the Covenant.

Regarding the location of the act, the Human Rights Committee said "that although the arrest and initial detention and mistreatment of Lopez Burgos allegedly took place on foreign territory, the Committee is not barred either by virtue of Article 1 of the Optional Protocol ("... individuals subject to its jurisdiction...") or by virtue of Article 2(1) of the Covenant ("... individuals within its territory and subject to its jurisdiction...") from considering these allegations, . . . inasmuch as these acts were perpetrated by

Uruguayan agents acting on foreign soil.¹

¹*Sergio Ruben Lopez Burgos v. Uruguay*, Human Rights Committee, Supplement No. 40, p. 182, para. 12(1), UN Doc. A/36/40 (1981)

The Optional Protocol gave the Human Rights Committee jurisdiction to hear a complaint against Uruguay. Regarding the language of Article 1 of the Protocol, the Committee stated: "The reference in article 1 of the Optional Protocol to 'individual subject to its jurisdiction' does not affect the above conclusion [a reference to para. 12(1)] because the reference in that article is not to the place where the violation occurred, but rather to the relationship between the individual and the State in relation to a violation of any of the rights in the covenant, wherever they occurred."²

The Human Rights Committee's construction of Article 1 of the Optional Protocol is pertinent to construction of Article 2 of the Convention on the Rights of the Child, since the latter uses the term "within their jurisdiction." Just as in Article 1 of the Optional Protocol, the reference to a state's "jurisdiction" implies no territorial limitation, so too, the reference in Article 2 of the Convention implies no territorial limitation. Article 2 of the Convention similarly refers to a state being obligated within its "jurisdiction."

The Human Rights Committee found nothing in Article 2 of the Covenant that would keep the Covenant from applying to acts of the agents of a state outside its borders. Article 2, said the Human Rights Committee, "does not imply that the State party concerned cannot be held accountable for violations of rights under the Covenant which its agents commit upon the territory of another State, whether with the acquiescence of the Government of that State or in opposition to it."³

The Human Rights Committee said that "it would be unconscionable to so interpret the responsibility under Article 2 of the Covenant as to permit a State party to perpetrate violations of the Covenant on the territory of another State, which violations it could not perpetrate on its own territory."⁴

Similar analysis is given by the Human Rights Committee in a second case, decided at the same time, involving an Uruguayan woman who was abducted by Uruguayan police in Brazil. Using nearly identical terms in its analysis, the Human Rights Committee said that Uruguay was responsible for acts by its

²*Id.*, at ¶ 12(2).

³*Id.*, at ¶ 12(3).

⁴*Id.*, at ¶ 12(3).

agents, even though the acts were carried out in Brazil.⁵

A state is responsible for violations of the right to life committed by its military forces in the territory of another state. A petition was brought before the Inter-American Commission on Human Rights on behalf of mental patients killed or injured by the military forces of the United States during hostilities in Grenada in 1983. Petitioners asserted a claim under the right to life provision, Article 1, of the American Declaration of the Rights and Duties of Man. Article 1 is phrased similarly to Article 6 of the Convention. Article 1 of the American Declaration states, "Every human being has the right to life, . . ." The American Declaration contains no provision regarding territorial scope.

⁵*Lilian Celiberti de Casariego v. Uruguay*, Human Rights Committee, Supplement No. 40, p. 188, at ¶ 10, UN Doc. A/36/40 (1981).

The Commission found the complaint admissible under Article 1 of the American Declaration, thereby accepting the proposition that a state is responsible for acts of its military forces in violation of the right to life, where the victims are in the territory of another state⁶. The case was settled after the United States paid monetary compensation to the victims and built a new hospital.

DESCRIPTION OF THE HARIRI FOUNDATION

The Hariri Foundation (“Foundation”) is a well-established, nonprofit, non-governmental organization which has been implementing educational, cultural and humanitarian projects in Lebanon for more than twenty years. The Foundation has sponsored thousands of students to attend educational programs in Lebanon, the United States, Western Europe, Canada and North Africa. The Hariri Foundation emerged in response to the need in Lebanon for educational and humanitarian assistance resulting from the devastation caused by the war. The Foundation, which began its mission in Sidon, Lebanon in 1980, is privately funded and receives no government funds. Its central offices are now located in Beirut.

The activities of the Hariri Foundation include improving the standard and level of education through the establishment of schools, the sponsoring of educational programs throughout the country, and the sponsoring of higher education (university level and higher specialization) both within the country and abroad through scholarship and loan programs. The Foundation also supports and promotes scientific research and studies. Additionally, it sponsors programs designed to provide assistance to groups of needy individuals including victims of war, orphans and the disabled through the provision of health care, mental health care, rehabilitative, medical, psychological or educational services, or general financial support.

In addition to the programs described above, the Hariri Foundation has implemented numerous extensive humanitarian projects in Lebanon, many of which specifically involve providing assistance to victims of war. Those projects include, inter alia, the SALVA Project, a project designed to provide financial support to orphans, or to children who have lost a parent in the war. This project encourages family unity and financial independence of widows by educating them so that they can support themselves and their children. The project has assisted at least 60 Lebanese families. Another project created by the Foundation is the Welfare Committee for the Children Orphaned in Israel’s April 1996 *Operation Grapes of Wrath*. This project was created to provide financial support as well as healthcare, rehabilitation, psychological, social and educational services to children who were orphaned in Lebanon during the 1996 Israeli/Lebanese conflict. The project will support these children through adulthood. It also provides the same support to families of victims and surviving victims of that conflict. It was implemented in response to

⁶*Disabled Peoples International*, Case 9213, Inter-American Commission on Human Rights 184, OEA/ser.L/V/II.71, document 9 revision 1 (1987) (*Annual Report 1986-1987*)

a UN General Assembly decision relating to children in armed conflict, and the call for the observance of June 4 as the International Day for Children Victimized by Armed Attacks.

Accordingly, in light of its goals and missions, the Hariri Foundation hereby requests the opportunity to present this information as well as the supporting evidence orally to the Committee in Geneva when the Committee meets in June 2002.

ISRAELI VIOLATIONS OF THE RIGHTS OF LEBANESE CHILDREN

Although the large-scale human rights violations committed by Israel in Lebanon have been the subject of many international investigations and findings of abuses,⁷ this Report focuses only on those incidents which took place subsequent to Israel's ratification of the Convention.

The violations recounted in this Report arise from Israel's occupation of southern Lebanon, and the conflict that has raged on the border between Israel and Lebanon since that time.⁸ The strategies and policies of the Israel Defense Force disproportionately endangered the lives and welfare of children. These strategies and policies include inter alia, (1) massive, indiscriminate military offensives, (2) deliberate targeting of civilian objects, (3) the illegal use of certain types of munitions - , i.e., incendiary munitions, cluster bombs, flechette shells -- on civilian objects, (4) the planting of mines, and (5) the rigging of toys with explosives. As discussed below, many of these practices and policies continue to affect the lives, safety and welfare of Lebanese children today despite the withdrawal of IDF forces from most of the territory Israel occupied in Lebanon. The lack of any peace agreement, and the continuous incursions by IDF present a risk of rapid escalation of violence by IDF forces that would again entail the types of violations of humanitarian law and human rights law that are the subject of this Report. This Report refers to

⁷The "MacBride Commission" investigated Israeli abuses and found Israel guilty of extensive violations of international law, including involvement in massacres of civilians, the illegal use of cluster bombs, and incendiary and fragmentation munitions, as well as acts of violence directed against civilian objectives. *The International Commission to Inquire into Reported Violations of International Law by Israel During its Invasion of Lebanon*, (Ithaca Press, 1983). In 1983, the U.N. Commission on Human Rights made a finding that Israel had committed genocide against Palestinian Arabs in Lebanon, The Commission "condemn[ed] in the strongest terms the large-scale massacre of Palestinian civilians in the Sabra and Shatila refugee camps for which the responsibility of the Israeli Government has been established." Continuing, the Commission "decid[ed] that the massacre was an act of genocide." Resolution 1983/3, 15 February 1983. Additionally, the abuses of human rights abuses committed by Israel in Lebanon during its 1982 invasion, and its unlawful use of US manufactured cluster munitions were the subject of numerous US Congressional hearings in the early 1980's and resulted in the banning of US exports of such munitions to Israel from 1982-1988.

⁸This Report is based in part on several research missions in Lebanon conducted at different times by the drafters of this Report, attorneys John Quigley and Mary Ramadan, and by employees of the Hariri Foundation, in particular, Ghazwa Naime. One of the research missions was conducted jointly in 1998 by attorneys Mary Ramadan and Susan Akram. This Report also relies on the published reports of international organizations such as Human Rights Watch, Amnesty International, UNIFIL the International Committee for the Red Cross, as well as other organizations cited in this Report. It also relies on information contained in press reports and information obtained through interviews with journalists.

humanitarian law as the appropriate standard for assessing right to life violations when military action is involved.

I. Massive Indiscriminate Military Offensives

Since 1990, when it became a party to the Convention, Israel conducted two massive military offensives in Lebanon, both so destructive and entailing human rights abuses so egregious, that they received international attention and condemnation. In both offensives, i.e., Operation Accountability 25-31 July 1993, and Operation Grapes of Wrath 11-17 April 1996, the IDF conducted massive attacks in areas of Lebanon well north of the occupied areas. In so doing, the IDF employed strategies intended to terrorize the civilian inhabitants into flight and created a massive humanitarian crisis. Such strategies included, inter alia, the broadcasting of evacuation warnings to many towns and villages, threatening that civilians unwilling or unable to leave would be targeted as "terrorists," and the bombardment of civilian objectives. In both offensives, the strategy was apparently to terrorize the civilian population of southern Lebanon to flee northwards in order to pressure the government of Lebanon to "rein in the guerrillas."⁹

Operation Accountability:

⁹*Civilian Pawns: Laws of War Violations and the Use of Weapons on the Israel-Lebanon Border*, Human Rights Watch, May 1996. The report quotes Israel's prime minister, Yitzhak Rabin, who declared: "The goal of the operation is to get the southern Lebanese population to move northward, hoping that this will tell the Lebanese Government something about the refugees who may get as far north as Beirut." In "Rabin Briefs Knesset Committee on Lebanese Operation," *Qol Yisra'el*, 27 July 1993, reprinted in FBIS-NES-93-143, 28 July 1993, pp. 20-21.

From 25-31 July 1993, Israel engaged in a massive week-long bombing campaign in Lebanon.¹⁰ On the evening of 25 July 1993, after the IDF commenced attacks using helicopter gunships, fighter jets and artillery on areas of southern Lebanon and Western Bek'aa, the Southern Lebanese Army ("SLA"), a militia maintained by and operating on behalf of Israel, began issuing warnings to residents to evacuate.¹¹ The evacuation warnings were confusing, and the time between the warnings and the commencement of bombardment was too short to allow many civilians, especially the elderly, the young or the sick, time to evacuate.¹² The offensive that ensued was so indiscriminate that, in some cases, entire villages were bombed.¹³ UNIFIL forces counted some 28,000 rounds of artillery, tank and mortar fire and some 800 bombs and missiles dropped from the air by Israeli forces during its seven-day blitz in 1993.¹⁴ In addition, the IDF fired tens of thousands of rounds from machine guns and rifles.¹⁵ A United Nations survey of the damage caused in the July bombardment of southern Lebanon by the Israeli army estimates that 1,500 houses were demolished and a further 14,000 damaged by artillery fire or aerial bombing.¹⁶ The same survey estimates that a total of 130 Lebanese civilians were killed and 500 injured.¹⁷ In addition, an estimated 200,000 civilians were displaced.¹⁸

There were numerous attacks on purely civilian objectives, such as repeated attacks on Sidon's vegetable markets and the Ein El Helweh refugee camp. Such attacks appeared to have been intended to terrorize the civilian inhabitants into flight further north.¹⁹

According to Human Rights Watch, Lebanese hospital records showed a high incidence of children and older men and women on the casualty lists:

¹⁰Report of the Secretary General of the United Nations Interim Forces in Lebanon, (UNIFIL Report) for the period 21 July 1993 - 20 January 1994, at ¶ 12.

¹¹Foreign Broadcast Information Services, FBIS-NES-96-072-73, 12-15 April 1996 (Israel and Lebanon), *Kafir Killa, Voice of the South Communiques*

¹²*Civilian Pawns*, *supra* note 9.

¹³*Civilian Pawns*, *supra* note 9.

¹⁴UNIFIL Report, at ¶ 12, *supra* note 10.

¹⁵*Id.*

¹⁶*Id.*

¹⁷*Id.*

¹⁸*Id.*

¹⁹*Id.*

The high incidence of children and older men and women on the casualty lists obtained from the above and other hospital supports the hospital official's claims that most if not all of the patients were civilians. At the Jabl Amal Hospital in Tyre, for example, one third of the 234 injured persons brought to the hospital that week were children under the age of nine, and another one fifth were persons age fifty and over.²⁰

As discussed at length below, in this offensive, Israel also unlawfully employed the use of incendiary munitions and flechette shells against Lebanese civilians.

Operation Grapes of Wrath:

The Grapes of Wrath offensive commenced in the aftermath of an incident in which a 14-year-old Lebanese boy was torn to pieces by an Israeli planted booby trap on April 9, 1996. In response, Hizbollah fired Katyusha rockets across the border into Israel injuring civilians. In retaliation, Shimon Peres ordered the mass bombardment of southern Lebanon from land, air, and sea.

²⁰ Civilian Pawns, *supra* note 9.

On 11 April 1996, the Israeli air force began intensive bombardment of southern Lebanon, and of certain areas of Beirut and the Bek'aa valley, striking targets it alleged were affiliated with Hizbollah, which sought to force Israel to withdraw from the territory it occupied in southern Lebanon.²¹ At the same time, Voice of the South, a radio station of the SLA, began broadcasting threats of further IDF bombardments, set deadlines for the inhabitants to evacuate, and declared that once a deadline passed IDF would regard all who remained behind as legitimate targets.²² By 12 April 1996, inhabitants of 45 southern Lebanese villages were ordered to evacuate within hours and placed under threats of bombardment.²³ On the same day, shortly after evacuation warnings were issued, the Israeli Navy began intense military operations along the coast and near the ports of the south Lebanon.²⁴ Later that same day, intensive air raids took place on the villages threatened in the evacuation broadcasts.²⁵

Israeli government officials reiterated their position that any civilians found in the villages after the deadline passed would be considered Hizbollah adherents, and hence without the protection guaranteed to civilians under the laws of war. On 13 April 1996, Voice of the South, the radio of the SLA broadcast the following:

In light of the continued terrorist actions by Hizbollah, the Israeli Army will intensify its activities against the terrorists starting tomorrow, 14 April 1996. Following the warnings broadcast by the Voice of the South to the inhabitants of 45 villages, any presence in these villages will be considered a terrorist one, that is, the terrorists and all those with them will be hit. Any civilian who lags behind in the aforementioned villages and towns will do so on his own responsibility and will put his life in danger.²⁶

The evacuation warnings continued over the days that followed, often only hours before massive air strikes on villages and many thousands of civilians were unable to evacuate for reason of age, illness, lack of transportation or otherwise, and in some cases, the bombing commenced prior to the announced deadline for evacuation.²⁷

²¹Foreign Broadcast Information Services FBIS-NES-96-072, 12 April 1996 (Israel and Lebanon), at 31-34.

²²*Id.*, *Kafr Killa Voice of South Communiques*, at 44, 45, 50, 51, 52, 55, 56, *supra* 11.

²³*Id.* at 50, 52.

²⁴*Id.* at 50.

²⁵FBIS, *supra* note 11.

²⁶*Kafr Killa Voice of the South Communiqué No. 4.*, *supra* note 11.

²⁷Human Rights Watch Report, at 5; Kafr Killa communiques and other broadcasts, *supra* note 11.

By 13 April 1996, approximately 90 towns and villages, including Tyre and villages north of the Litani river, had been placed under such threat.²⁸

²⁸UNIFIL Report, at ¶12.

During the Grapes of Wrath offensive, the IDF killed 170 Lebanese civilians, seriously wounded at least 500 others, displaced 350,000, and damaged or destroyed hundreds of houses.²⁹ There were at least three attacks on civilians that resulted in a high number of deaths of children. The evidence in each case, which is discussed at length in this Report, strongly suggests that the killings were deliberate.

Altogether, during its Grapes of Wrath offensive, Israel conducted more than 600 air raids in southern Lebanon, using over 1500 bombs and rockets. Israeli artillery fired some 25,000 shells into the UNIFIL areas of southern Lebanon during the same period. Israel also used long-range patrols which moved forward of the occupied area, and in two places, planted mines and booby-traps.³⁰

Violations of the Right to Life of Children in the Two Offensives:

In both offensives, Lebanese civilians, and children in particular, bore the brunt of the assaults and bombardments conducted by the IDF. Excluding the incidents of apparent deliberate killings, which are discussed at length below, the general strategies and policies of indiscriminate massive attacks alone constitute significant and egregious violations of the right to life of Lebanese children.

The evacuation warning broadcast during both offensives in no way excused Israel from its obligations under international law to respect civilian lives and structures, and to take all necessary precautions to ensure the protection of civilians.

In all of these events, the IDF displayed extreme disregard for the presence and safety of civilians. This utter disregard for life and safety is repeatedly manifest by IDF targeting civilian objectives such as hospitals, ambulances, houses, schools, water and other objectives which could only be perceived as civilian, and which resulted in the death and injury of many Lebanese children, and constitutes a grave violation of the right to life of Lebanese children. By targeting structures such as homes, schools and hospitals, Israel knew there was a substantial chance that there would be civilians, including children, present. Moreover, the tactics employed by the IDF, at times involving the broad large-scale attacks on heavily populated areas, and the disproportionately extensive damage to civilian objectives caused by such tactics, clearly demonstrate the intentional and deliberate nature of the violations.

Finally, the types of weaponry and munitions employed, i.e., attacks usually involving heavy, intensive shelling, the use of wide-area effect munitions such as cluster-bombs, flechette rounds, cluster munitions, and various powerful air-to-ground missiles, including the anti-armor "Hellfire" missile fired from helicopter gunships, indicate the same. In many cases, IDF conducted broad attacks on heavily populated areas or even within urban areas with powerful munitions that are ill suited to surgical strikes to military

²⁹International Committee for the Red Cross, *Annual Report 1996 on Lebanon*; UNIFIL Report, at ¶ 18.

³⁰UNIFIL Report, ¶ 16.

targets. In some instances, where the objects targeted could only be perceived as civilian, the conduct raises the killings of children to the level of deliberate killing and murder.

II. Intentional Killings of Lebanese Children by IDF Forces

The IDF violated the right to life of Lebanese children by deliberately and intentionally targeting civilians during its Grapes of Wrath offensive in April 1996. Described below are incidents that involved mass killings of children by the IDF.

The Killing of 106 Civilians at the UNIFIL Base in Qana, Lebanon on April 18, 1996:

In the most deadly single attack of the offensive, the IDF deliberately shelled buildings on the UNIFIL base in Qana, Lebanon, in which at least 800 refugees, the majority of whom were children, had sought shelter from Israel's bombardment of nearby villages. That single episode of shelling took the lives of over one hundred civilians, including fifty-two children.

The facts underlying this massacre are as follows:

On 18 April 1996, shortly after 2:00 p.m. local time, the IDF began an artillery bombardment of the headquarters compound of the Fijian battalion of the United Nations Interim Force in Lebanon (UNIFIL). The IDF unit that conducted the artillery barrage was positioned inside the zone of Lebanon that was then being occupied by Israel. At the time, approximately 800 Lebanese civilians were being sheltered inside the UNIFIL compound, which is located in the village of Qana. 106 civilians were killed and a larger number were wounded.³¹

Qana is a village located approximately ten kilometers north of the demarcation line of the zone of Lebanon occupied at the time by Israel. Prior to the shelling of the UNIFIL base in Qana, Hizbollah forces apparently fired mortar at an Israeli patrol that was operating in or close to Qana and well north of the demarcation line of Israel's zone of occupation. Hizbollah apparently fired from two separate points, approximately 200 and 350 meters away from the UNIFIL base. The patrol was part of an IDF Special Forces unit operating in Lebanon north of Israel's zone of occupation, to lay booby traps and set ambushes for Hizbollah combatants. According to General Amiram Levine, head of the IDF Northern Command, the unit was nicknamed "Egoz," which in Hebrew means "walnut." The unit began operations in Lebanon in July 1995 and was very active during Operation Grapes of Wrath. The unit's existence was a secret until made

³¹ Report submitted to the Secretary General of the United Nations 1 May 1996, by Major General Franklin van Kappen, entitled *The Shelling of the UN Compound at Qana*, 18 April 1996, at ¶1 (*hereinafter* van Kappen Report).

public by the IDF in December 1996.³²

Israel denied that it intended to kill civilians when it shelled the UNIFIL compound at Qana. However, an investigation of the incident conducted by Major-General Franklin van Kappen, Military Advisor to the Secretary General, found that it was "unlikely that the shelling was the result of gross technical or procedural error." The critical facts that led General van Kappen to this conclusion were: (1) the pattern and distribution of impacts, which showed the majority of shells falling on or in the immediate vicinity of the buildings in the compound; (2) the perceptible shift in the weight of fire from an initial barrage that fell on the mortar site to a second barrage that fell on the United Nations compound; and (3) that there were two Israeli helicopters and a remotely piloted vehicle (drone) flying above the Qana area at the time of shelling.

³²*Army Lifts Veil on Secret Anti-Guerrilla Unit in Lebanon*, Agence France Presse, 4 December 1996.

The physical evidence contradicted IDF explanations of how the IDF came to shell the UNIFIL base.³³ Contrary to IDF assertions that the shelling was a result of "overshooting its target," General van Kappen's investigation revealed that there were thirty-six impacts in the Qana area, and two distinct areas where impacts were concentrated.³⁴ The first concentration of impacts was about 100 meters south of the UN compound, on a group of houses. 17 shells landed in that area -- 16 with impact fuses, one with a proximity fuse.³⁵

There was a perceptible shift of firing from the first to the second concentration of impacts which was centered in the middle of the United Nations compound. At least eight proximity-fuse artillery munitions detonated directly above the compound, and one just outside it. At least five high explosive point-detonating projectiles detonated in the compound and three close to it.³⁶

The IDF claims to possess aerial photographs it took after the attack that show "a continuous chain of detonation craters commencing from the mortar location and proceeding in a northerly direction over Qana camp."³⁷ However, U.N. photographs show two distinct groupings of shells, one near the Hizbollah mortar site, and another in the Qana compound.³⁸

³³ van Kappen Report, ¶¶ 10, 13.

³⁴ van Kappen Report, ¶10(a).

³⁵ van Kappen Report, ¶10(b).

³⁶ van Kappen Report, ¶10(c).

³⁷ *IDF Response to UN Report on Qana Incident*, 9 May 1996.

³⁸ Copy of U.N. aerial photograph of UNIFIL base in Qana. Evidence can be made available to the Committee including

Approximately two thirds of the shells used were proximity-fuse which explode above the target, spreading huge sheets of shrapnel. Because of type of ordnance employed, many of the civilians sheltering inside the compound were torn to pieces, limbs severed, or were decapitated or burned beyond recognition.³⁹

slides of the aerial photographs .

³⁹Evidence can be made available to the Committee upon request including photographs of the compound after the attack and a copy of the videotape filmed by a soldier from the UNIFIL Norwegian Battalion on 18 April 1996 as the attack was underway.

Nearly all the proximity fuse shells that were fired landed in the Qana compound, rather than at the mortar site.⁴⁰

Prime Minister Shimon Peres, when asked whether Israel knew that civilians were in the UNIFIL camp at Qana, said, "Definitely not. We didn't have the slightest idea and I think it is a scandal they were permitted into the camp and without letting us know about it."⁴¹

Contrary to Peres' denial, the IDF knew that hundreds of civilians, refugees, and internally displaced persons were sheltering inside UNIFIL compounds at the time. Director of Israeli Artillery, Brigadier General Dan Harel, confirmed that the IDF had been informed by UNIFIL only two days prior to the incident that there were some 5,000 to 9,000 refugees sheltering in UNIFIL bases in the area.⁴² UNIFIL spokesperson Timor Goksel explained that he had informed the IDF that civilians were sheltering in UNIFIL bases: "From the beginning of Grapes of Wrath, we said to the Israelis, I told them personally, that about 6,000 Lebanese civilians were sheltering inside our positions."⁴³

The IDF said that while it knew that UNIFIL had civilians in its bases generally, it did not know that civilians were being sheltered specifically in the Qana UNIFIL base.⁴⁴ That claim is disingenuous. The information that UNIFIL had communicated to the IDF was that the number of refugees being sheltered was in excess of 5000. Information that civilians were being sheltered in such high numbers in these bases put the IDF on notice that there was a substantial chance that civilians, including many children, would be in any one of them.

⁴⁰van Kappen Report, ¶10(d).

⁴¹Luc de Barochez: *Peres Blames UN for Qana Massacre, Drawing Angry Denial*, Agence France Presse, 7 May 1996.

⁴²*Transcript of CNN Interview of Israeli Defense Force Brigadier General Dan Harel*, 7 May 1996.

⁴³*Israel Knew Civilians Were Hiding in Qana Camps: UN*, Agence France Presse, 6 May 1996.

⁴⁴*IDF Response to UN Report on Qana Incident*, 9 May 1996.

As the IDF knew, UNIFIL personnel were encouraging civilians to take shelter at the compound, precisely because the UNIFIL personnel knew that IDF shells were landing with great frequency on residential housing. Major General Moshe Ya'alon, the head of IDF intelligence, said that he knew that this was occurring:

The fact that civilians are evacuated from the villages into U.N. facilities was known to us from the second day of the operation. . . . In the intelligence wing there was no discussion of whether there were two or six hundred civilians in Qana. . . . The relevant question is, was it correct to open fire in such circumstances?⁴⁵

Despite Israel's stated policy of trying to prevent civilian deaths, the IDF took none of the customary precautions to prevent civilian casualties when it began shelling Qana. It issued no warning to the UNIFIL base that it was about to fire in its vicinity or about to come under attack. Moreover, the IDF deliberately used disproportionate force in an area which it knew was heavily populated with civilians.

⁴⁵Derek Brown, *Gunners' Cover is Blown*, *Guardian*, 11 May 1996.

The IDF responded to General van Kappen's report, disputing it on several points.⁴⁶ In particular, the IDF claimed that its aircraft were over the Mediterranean coast, which is twelve kilometers west of Qana, at the precise time of the shelling and, thus, were not able to observe that the shells were landing on the compound buildings. In his *Addendum*, General van Kappen replied that the aircraft were in fact over Qana at the precise time of the shelling.⁴⁷

Lt. General Amnon Shahak, Israel's chief of staff, defended the shelling as follows:

I don't see any mistake in judgment... We fought Hizbollah there [in Qana], and when they fire on us, we will fire at them to defend ourselves.... I don't know any other rules of the game, either for the army or civilians.⁴⁸

Israel denied that it had a drone over Qana until The Independent newspaper (London) reported that a videotape had been taken by a U.N. soldier at another U.N. camp and showed a drone over Qana during the bombing.⁴⁹ Thereafter Israel, confronted with the proof, admitted to the presence of a drone but claimed it was on 'another mission.'⁵⁰ Whereupon, Israel released only four minutes of fifty minutes of

⁴⁶ *Addendum to UN Report on the Qana Shelling*, in van Kappen Report.

⁴⁷ *Addendum to UN Report on the Qana Shelling*, in van Kappen Report.

⁴⁸ John Daniszewski & Marjorie Miller, *75 Die as Israeli Shells Hit UN Post in Lebanon; More than 100 Are Wounded*, Los Angeles Times, 19 April 1996.

⁴⁹ Robert Fisk: *We Did Not Kill Deliberately, Israel Says*, The Independent (London), 7 May 1996; *U.N. Disputes Israel on Lebanon; Israel, U.S. Denounce Report on Shelling*, Baltimore Sun, 8 May 1996. Videotape filmed by soldier from the UNIFIL Norwegian Battalion on 18 April 1996.

⁵⁰ Robert Fisk, *We Did Not Kill Deliberately, Israel Says "Soldiers cried for the Dead Children": UN Commander Gives First Interview*, The Independent (London), 7 May 1996.

videotape that it possesses, and which had been taken by its drone. The release of that footage indicates that the drone was successfully transmitting images of the scene.⁵¹ Drones are typically used to guide gunners in firing at objectives that they cannot otherwise see. The fact that the IDF had a drone over Qana at the time it was firing into Qana suggests that the IDF was using the drone to determine where to fire, and that the IDF Northern Command was able to see where each shell fell. The van Kappen Report confirms that the orders to fire came from Israeli officers of some level of seniority:

⁵¹Nicolas B. Tatro, *Israel Airs Own Video of Drone Over U.N. Base*, *The Austin American Statesman*, 9 May 1996.

The commanding officer had therefore sought instructions from Northern Command, which rechecked the data and gave permission to fire.⁵²

Moreover, on the videotape shells are heard landing at the same time the aircraft overhead is seen. There is no doubt that the IDF knew that the shells were landing on the UNIFIL base and that the base was sheltering large numbers of civilians.

The IDF claimed that the videotape taken by the Norwegian soldier did not prove that it was observing the Qana compound prior to or during the shelling. It said that while the drone could have been heard in the Qana area, that does not prove that it was over Qana, because drones can be heard from a distance.⁵³ On the videotape, however, one not only hears the aircraft as shells are landing, but one sees it as well. The IDF assertion is simply not persuasive.

Initially, the IDF said that the base was hit as a result of a few stray rounds of artillery that were overshoot. However, UNIFIL spokesperson Timor Goksel said, "The importance of the tape is it shows the shelling is not one or two rounds that overshoot, as we have been told for the past two weeks, . . . but that it was a targeted shelling."⁵⁴

Lieutenant Colonel Wame Waqanivalagi, Commander of the Fijian Battalion headquarters at UNIFIL, was in the Qana compound as the shells fell. In a statement he gave to the drafters of this Report through the Fijian Embassy, he stated the following:

⁵² van Kappen Report, ¶6(b).

⁵³ *IDF Response to UN Report on Qana Incident*, IDF Release, 9 May 1996.

⁵⁴ *Videotape Supports Claims Israel Targeted U.N. Base; MidEast: Jewish State Continues to Insist That Shelling That Killed 100 Refugees Was An Accident*, Los Angeles Times, Foreign Desk (from Associated Press), 7 May 1996.

On 18 Apr [sic] 96 at about 1355 hrs, we received reports of Herzbola [sic] setting up and firing katyushas some 600 to 800m west of UN1-20. At about 1410hrs sporadic retaliatory fire from the IDF 155mm Artillery Battery shells landed at the Katyusha firing sites to the West of 1-20. Verbal warnings were given to all personnel civilian and military at 1-20 to move to the shelters. Suddenly the first round of the 155 mm artillery shells landed inside 1-20 and immediately killed three (3) civilians. From this point in time 155 artillery shells delayed fuse and airburst were sighted and experienced landing within the 1-20 Qana compound. Fourteen (14) 155mm shells landed inside 1-20. After every shell people were killed by shrapnel, buildings were burnt to the ground, people were burnt alive. The chaos in the UN Compound, 1-20, was uncontrollable. The sound of wailing, shouting and crying for help, the smell of death and the sight of torn bodies strewn all over 1-20 is an experience that will never be forgotten. One hundred and ten (110) civilians massacred and three (3) Fijian Peacekeepers seriously injured. Building, stores and equipment destroyed and there was nothing I could do to stop the shelling but to initially inform UNIFIL Operations after the first shelled landed on 1-20 that we were being shelled and to inform the IDF that people were being massacred. When it finally stopped a total of fourteen (14) shells landed inside 1-20 or otherwise know as the Qana compound. One hundred and ten (110) people were killed and immediately on the evening of 18 Apr 96 the rest of the civilian population that survived the shelling left the Qana compound and moved to Beirut for shelter. They left the only other place that they believed could offer them a secured shelter, the UN compound, obviously their belief was shattered when UN I-20 was intentionally shelled⁵⁵

In an interview in the London Independent, Colonel Wame stated:

The Israeli 'margin of error' was too big to say this was an error. There were two Israeli helicopters observing the shelling in this headquarters – they were observing as shells landed here.⁵⁶

In response to the Israeli assertion that the drone was present but on another mission, he stated:

I wouldn't know about 'another mission.' All I know is that I was shelled. My men saw these Israeli drone planes from their observation post. They saw one before the massacre. We know the Israelis are very good at artillery shooting. Much of the time when the Israelis have shot in the area, we would loaf around in the camp. We knew how accurate their shooting was.⁵⁷

Further proof of the deliberateness of the shelling is evidenced in the statements of Prime Minister Shimon Peres and General Amnon Shahak, that Hizbollah was operating near United Nations bases, and, therefore, it would hit the United Nations bases as well. On 8 May, 1996, the Baltimore Sun reported:

Both Shimon Peres and Amnon Shahak suggested in interviews April 23 that if Hizbollah was operating near U.N. camps, U.N. soldiers could expect to be shelled. "We knew it was a U.N. position," Shahak then said. "The U.N. must understand that either it prevents fire or interferes with Hizbollah or it enters the

⁵⁵Affidavit of Colonel Wame Waqanivalagi.

⁵⁶Robert Fisk, *We Did Not Kill Deliberately, Israel Says "Soldiers Cried For the Dead Children": UN Commander Gives First Interview,* The Independent (London), 7 May 1996.

⁵⁷*Id.*

bomb shelters.”⁵⁸

Thus, the IDF maintains that Hizbollah’s firing at its patrol inside Lebanon from approximately 200-350 meters from the UNIFIL base at Qana, would constitute justification for targeting that base, even where, as in this instance, large numbers of civilians were present and there was a great possibility of loss of civilian life.

⁵⁸*U.N. Disputes Israel on Lebanon; Israel, U.S. Denounce Report on Shelling*, Baltimore Sun, 8 May 1996.

General van Kappen 's report states three Hizbollah combatants entered the Qana compound on 18 April 1996. However, it was not clear to General van Kappen whether this occurred before or after the IDF shelling.⁵⁹ Prime Minister Shimon Peres stated, "I think the Hezbollah people themselves, after the shooting and before the shooting, used the UNIFIL camp as a hideaway for them and their families."⁶⁰ UN officials strongly refuted allegations that they were harboring combatants. Specifically, General Stanislaw Wozniak, Polish Commander of UNIFIL, wrote in a letter to the Israeli military command that the Israeli assertion [that Hizbollah guerrillas are using UN bases for cover to fire Katyushas rockets into Galilee] was a "transparent effort to justify further tragedies, should they occur, as a result of continuing random (Israeli) shelling of UNIFIL area of operations."⁶¹

Additional evidence that the shelling of the UNIFIL base at Qana was deliberate is that, according to UNIFIL officials, the IDF was repeatedly informed by telephone that it was shelling civilians. They state that only one or two minutes into the barrage, they contacted Israel and informed it that its forces were shelling their base. For at least 11 to 12 minutes after the contact was made, the IDF continued to fire. UNIFIL spokesperson Timor Goksel said, "We asked Israel several times to stop firing on the Fijian headquarters, telling them that we had civilian victims, but in vain."⁶²

Despite international condemnation of the attack on civilians, Israel did not discipline the gunners responsible for the massacre. On the contrary, Israeli officials continued to justify the attack, suggesting that the civilians killed were aiding Hizbollah.

The 13 April 1996 Rocket Attack on an Ambulance in Mansuri, Lebanon:

On 13 April 1996, while Israeli forces were conducting massive attacks on heavily populated areas of southern Lebanon in the context of "Operation Grapes of Wrath," an IDF helicopter deliberately targeted an ambulance packed with fourteen civilians fleeing the southern Lebanese village of Mansuri. The attack resulted in the instant death of four children and two women, and the severe wounding of eight other civilians, including four other children, two women, and two older men. The facts clearly establish that the attack was both deliberate and made with full knowledge that the occupants of the ambulance were civilians, nearly all of whom were children (8) and women (4).

⁵⁹van Kappen Report, at ¶9(e).

⁶⁰Luc de Barochez, *Peres Blames UN for Cana Massacre, Drawing Angry Denial*, Agence France Presse, 7 May 1996.

⁶¹ Robert Fisk, *Israeli Bid to 'Justify Further Tragedies;' Lebanon Crisis: UN Commander Infuriated by Claims That Hizbollah Are Still Using Un Bases as Cover for Rocket Attacks*, The Independent (London), 24 April 1996.

⁶²Bruce Nelan, *Dark with Blood: Israel Tried to Bomb Hizballah into Submission, but a "Grave Error" Slaughtered More than 100 Lebanese Civilians. Can Diplomacy Do Anything?* Time Magazine, 29 April 1996.

The deliberateness of the attack is established beyond any doubt by both testimonial and real evidence. The evidence includes: (1) multiple first-hand eyewitness accounts both of the surviving victims of the attack and of other persons present at the time and location of the attack (including UNIFIL members, local residents, Reuters journalists and fleeing civilians); (2) copious photographic evidence including a videotape and multiple photographs taken by an eyewitness/Reuters journalist who was on the scene at the time of the incident; and (3) other real evidence found and gathered at the scene of the attack. The specific facts surrounding the incident are as follows:

In the two days preceding the 13 April 1996 attack on the fleeing ambulance, the operational phase of Operation Grapes of Wrath was in full force, and IDF forces were undertaking massive attacks on a broad front covering most of southern Lebanon from air, land and sea.⁶³

The SLA radio station was broadcasting threats of further IDF bombardments, and had set deadlines for the inhabitants of some 90 villages to evacuate.

Hundreds of thousands of Lebanese civilians took to the coastal road in response to the warnings, and were trying to escape the bombardment and shelling.⁶⁴ As mentioned above, many thousands of civilians were unable to evacuate for reason of age, illness, lack of transportation or otherwise.⁶⁵

As reported by numerous fleeing civilians, journalists on the scene, and UNIFIL soldiers, the IDF began attacking those villages and towns, as well as the roads on which the civilians were fleeing before the announced deadlines for evacuation.

⁶³Report to the Secretary General on the United Nations Interim Force in Lebanon, 22 January 1996 to 20 July 1996, p. 4 at ¶ 16.

⁶⁴*Kafr Killa Voice of South Communiques*, at 44, 45, 50, 51, 52, 55, 56, *supra* note 11.

⁶⁵Human Rights Watch Report , *Lebanon/Israel: Operation Grapes of Wrath-The Civilian Victims* Vol.9, No. 8(E), September 1997.

The village of Mansuri was one of the villages placed under threat by the SLA radio. The residents of Mansuri, along with residents of numerous other villages in the surrounding area, had been ordered to evacuate by 09:00 on Sunday 14 April 1996 when, according to radio issued warnings the Israeli Northern Command “would begin shelling.”⁶⁶ Shortly after the above-mentioned, and other similar radio warnings were issued, IDF planes and helicopters began attacking civilians fleeing the villages in vehicles.⁶⁷

⁶⁶Ahmed Mantash *Israeli Warning Sparks Exodus From Lebanese City*, Associated Press, April 14, 1996; *Lebanon: Israel Launches Fourth Day of Air Raids in Lebanon*, Reuters News Service 14 April 1996.

⁶⁷*Children Killed in Israeli Attack*, The Observer, 14 April 1996; Lebanese Radio Broadcasts 12-15 April, 1996, *supra* note 11, pp. 65-8.

On 13 April 1996, Israel began shelling Mansuri, and continued to do so all throughout the day. Abbas Jiha, a Mansuri farmer and volunteer ambulance driver for the village, had been rescuing wounded in Mansuri and transporting them by ambulance to the hospital in Tyre.⁶⁸ When Jiha returned to Mansuri in the afternoon for the last time to gather his wife and four children and eight other terrified civilians into the ambulance to head north, few people were left in the village, and part of the town was on fire from shelling.⁶⁹ According to Manar Fadi El Khaled, thirteen years old at the time, panicked residents of the village were gathering in a playground to get into cars and buses to escape the bombing.⁷⁰ She boarded the ambulance.

The occupants of the ambulance at the time of the attack were Abbas Jiha, his wife, Mona, their nine-year old Zeinab, their five-year old Hanine, their two-month old Mariam, their six-year old son Mehdi, thirty-three year old Fadila El- Okla and her aunt Nowkal, Mohamad Hisham, a window repairman, and five members of the al-Khaled family, 22-year old Nadia (Nowkal's daughter) and her four nieces, three year old Sahar, seven-year old Aida, eleven-year old Hudu, and thirteen-year old Manar. Of the 14 occupants of the vehicle, only two were male adults.⁷¹

According to the statements of surviving victims and eye witnesses, two IDF Apache helicopters hovered in the air overhead as the civilians loaded into the car, and appeared to be watching the civilians board the ambulance.⁷² One helicopter then proceeded to follow the ambulance past a UN checkpoint, at which point the pilot fired two missiles, one "exploding through the back door of the ambulance, engulfing it in fire and smoke, and sending it hurling 20 meters into the room of a house."⁷³ The missile fired by the IDF helicopter was a "Hellfire" missile: a deadly anti-armor, air-to-surface missile.

Manar Fadi El Khalid describes the seconds before the rocket was fired:

The car moved on while fear controlled us all as the airplanes flew directly above ourheads. What can I

⁶⁸Robert Fisk: *Is this Some Kind of Crusade?* London Independent, May 18, 1997.

⁶⁹*Id.*

⁷⁰Affidavit of Manar Fadi El Khaled.

⁷¹Affidavit of Manar Fadi El Khaled; Affidavit of Najla Abujahjah; London Independent, May 18, 1999, *supra* note 68.

⁷²*Id.*

⁷³*Id.*; Eyewitnesses also told Human Rights Watch that prior to the attack two Israeli helicopters "watched" overhead as civilians loaded into the ambulance, followed the ambulance past a U.N. check point, and then fired a missile at the vehicle. See Human Rights Watch Report, *supra* at footnote 65, pp. 22-24. See also Amnesty International, *Israel/Lebanon Unlawful Killings During Grapes of Wrath*, Document MDE 15/42/96, July 1996. Evidence can be made available to the Committee, upon request, corroborating the ambulance attack including statements of witnesses, victims, photographs and videotapes as well as other material evidence.

tell you? The helicopter was directly above the ambulance and the pilot could see easily who were inside it as it was very near above us. Everybody trembled of fear. Abbas Jaha's wife said that the chopper was trailing us and that she felt that it was going to bombard us.⁷⁴

Najla Abujahjah, a Reuters journalist who had been taking photographs and filming the flight of civilians streaming past the UN check point (UN I-23), saw the helicopter trail the ambulance, and then fire the missile. Abujahjah's testimony, like the testimony of the surviving occupants of the ambulance, was that the helicopter hovered close to the ambulance, followed it past the UN checkpoint, and fired the missile:

⁷⁴Affidavit of Manar Faid El Khalid.

It was approximately 1:40 when I heard the siren and saw the ambulance coming closer. I thought that it was transporting wounded, but when I got closer, I saw that it was packed with women and children. I had a sense for a moment that told me to go back and ride with them but then I retreated. I felt the need to monitor the helicopter that was hovering close to the ambulance, and I wanted to take some pictures of the road block that was clear even of the guards [UNIFIL], except for an occasional frightened face that would appear briefly. At this point, the helicopters started to rapidly approach and I began monitoring them closely and it seemed to me from the way it was flying that it was on the brink of attacking a near target. I never ever imagined that its target would be that close. I hid behind a wall, and I started filming the helicopter and suddenly it launched a missile that fell about a distance of 20 meters from me and exploded.⁷⁵

The Reuters television footage of the attack first showed a vehicle “clearly marked as an ambulance, and then a vehicle engulfed in smoke, and finally the car wrecked and full of dead and dying women and children.”⁷⁶ The video also depicts Jiha, wounded and running from the ambulance with two small children in his arms and a little girl bleeding from her head, and crying “My sister’s head exploded.”⁷⁷

Israeli government officials reiterated their position that any civilians found in the villages after the deadline passed would be considered Hizbollah adherents, and hence without the protection guaranteed to civilians under the laws of war. They reacted to these killings by rationalizing them on the grounds that a “terrorist” had been riding in the ambulance, and that the IDF was entitled to kill any civilians who remained in the area from which it had ordered evacuation:

The vehicle was sighted by the Israeli army and the terrorist was killed.... If children were killed I regret that but repeat and stress they were in an area from which the Hizbollah fires Katyushas and they were not to be there. We will continue hitting anyone who goes around in the places from which Hizbollah fires.⁷⁸

⁷⁵See affidavit of Najla Abujahjah describing the horrific scene of the dead and dying victims in the aftermath of the attack. See also Reuters videotape depicting the ambulance passing the check point, and then the dead and dying victims in the aftermath of the attack.

⁷⁶*Id.* See also Colleen Siegel: *Israel Says Guerrilla Was Destroyed in Ambulance*, Reuters News Service, 13 April 1996.

⁷⁷*Id.*

⁷⁸Human Rights Watch Report, *supra* note 65, at 22, citing Colleen Siegel, *Israel Says Guerrilla Was in Destroyed*

The Chief of the Israeli Army's Northern Command said the "car was driven by a terrorist who was killed in the attack." Abbas Jiha was a civilian trying to transport his family and other civilians to safety at the time of the attack. His wife and three of his children died in the incident. He, however, survived the attack.

In another statement regarding this incident, the government of Israel said:

Ambulance, Reuters, 13 April 1996 (quoting IDF Chief of Staff Amnon Shahak.)

We gave the residents advance warning to clear out so as not to get hurt. All those who remain there do so at their own risk because we assume they're connected with Hizbollah.⁷⁹

The customary international law of war prohibits the terrorizing of a civilian population. Both acts of violence and threats of violence are prohibited when their primary purpose is to spread terror among civilians.⁸⁰

Finally, the statements made by Israeli officials acknowledge that the IDF intentionally targeted the ambulance, rather than having hit it by accident. Israel claimed that a "terrorist" been in the ambulance, but all of the evidence clearly disproves that claim. All of the statements from eyewitnesses and victims are consistent. Moreover, the videotapes and photographs further support this testimony. The only passengers aboard the ambulance were terrified civilians -- two men, four women and eight children -- who were fleeing IDF aerial and artillery bombardment. Thus, all of the available evidence conclusively indicated that the IDF intentionally targeted the ambulance, and that it did so understanding that it was occupied by civilians, most of whom were children.

III. The Targeting of Civilian Dwellings by IDF

The number of civilian homes destroyed and damaged by IDF during major offensives as well as other times, indicates the extent of IDF's disregard for civilian life. The two cases below of homes targeted by IDF, are only two of the many examples of the real civilian toll behind the number.

On 18 April 1996, an Israeli helicopter gunship fired a missile into a house in Upper Nabatiyyeh, a village within the area encompassed by the evacuation warning of 17 April 1996, killing nine civilians, including a newborn baby and six children under the age of thirteen, all of whom were sleeping when the attack began. The newborn baby was that of Fawziyeh Khawajah, a woman who had delivered four days earlier, and who was unable to evacuate in response to the warning of 17 April 1996. She and seven of her children were killed in the attack.⁸¹

⁷⁹Human Rights Watch Report, *supra* note 65, at 5, citing SLA radio broadcast of 13 April 1996 statement of Uri Dromi, spokesperson, government of Israel.

⁸⁰See Protocol I of 1977, Art. 51(2).

⁸¹Human Rights Watch Report, *supra* note 65 at 24, (quoting victims and witnesses).

Prime Minister Shimon Peres, stating he was "surprised" that civilians had been killed, nonetheless justified the attack:

We only hit at those buildings from which Katyushas were fired. But naturally Nabitiyyeh was supposed to be vacant.⁸²

⁸²Derek Brown, *Bitter Aftertaste to Grapes of Wrath*, The Guardian, 19 April 1996.

In a strikingly similar incident, on 22 December 1998, an IDF helicopter fired an air-to-ground missile into a farmhouse in Janta, near the eastern city of Baalbek some 80 kilometers from the occupied area, killing a woman and her six children. The woman, thirty-five year old Nadwa Othman, and her three girls and three boys, aged one to sixteen, were mutilated and charred beyond recognition. Nadwa Othman was working on the farm when the missile was fired.⁸³ Israel claimed to have been targeting Hizbollah “training camps” on the mission. An Israeli reconnaissance plane was in the area flying at low altitude at the time of the attacks.⁸⁴

VI. The Illegal Use of Cluster, Flechette and Incendiary Munitions

Israel has engaged in the widespread illegal use of different types of weaponry and munitions against civilians in Lebanon. Specifically, it has engaged in the illegal use of cluster munitions, flechette shells, incendiary munitions such as white phosphorous, as well as other types of anti-personnel munitions. The attacks detailed in the previous sections of this Reports are examples of cases in which IDF employed the use of anti-armor and anti-personnel weapons against civilians -- e.g., the use of the “Hellfire” missiles in the ambulance attack, the use of air-to-ground missiles to target homes, and the use of proximity-fused shells to target the UNIFIL base in Qana, among others. Described below are further instances of the IDF’s unlawful use of war weapons against civilians.

The Illegal Use of Phosphorous Munitions:

With regard to the use of phosphorous munitions, Human Rights Arms Watch stated:

The available circumstantial evidence of the illegal use of phosphorous, and/or other incendiaries by Israel against Lebanese civilians is so compelling as to warrant serious investigation and a public response by the Israeli government. Among other evidence, Human Rights Watch saw several civilians, including children, in southern Lebanon with burns that are likely to have been caused by phosphorous.⁸⁵

⁸³ *Lebanese Woman and Six Children Killed in Israeli Raid*, Agence France Presse, 22 December 1998.

⁸⁴ *Id.*

⁸⁵ *Civilian Pawns*, *supra* note 9. See also Jim Cusack: *UN Disputes Body Count in Lebanon*, The Irish Times, 30 August 1993, citing UNIFIL Press Information Officer Timor Goksel confirming IDF’s use of phosphorous weapons in Operation Accountability.

Human Rights Watch investigated cases in which phosphorous shells were used against Lebanese civilians by the IDF. In one instance, during Operation Accountability, Israel used such munitions on the village of Haris, on the border of the occupied zone in southern Lebanon. On the evening of 26 July 1993, the IDF, which had begun targeting houses in Haris, fired a phosphorous shell into the home of Hassan Dimashq. Hasan Dimashq, his wife and five children had just moved into the home five months earlier, after a seventeen-year stay in Sierra Leone. The shell came through the roof of the house into the room where three of the Dimashq children were sleeping at the time. The room filled with smoke first and then burst into flames. Two children, five-year old Jihad, and three-year old Maryam, died from burns caused by the phosphorous shell. A third child, seven-year old Muhammad Dimashq, was seriously injured but survived the attack. The evidence reviewed by Human Rights Watch in the case included “empty artillery shells, or fragments of artillery shells, with headstamps indicating they had contained phosphorous.”⁸⁶

There were various other reported cases in which IDF used incendiary munitions against civilians and civilian objectives in the 1990's during Israel's occupation of southern Lebanon. International humanitarian law strictly prohibits the use of phosphorous and other incendiary munitions on civilians or civilian objectives.

The Illegal Use of Flechette Shells:

There have been many reports of the IDF's illegal use of flechette shells in Lebanon, increasingly so after 1993.⁸⁷ A flechette shell is an “antipersonnel weapon that contains ten to fourteen thousand 1.5 inch steel darts which are released from the canister and spread out in an arc that can reach a width of about 94 yards,”⁸⁸ and over a considerable distance.

A 1995 UNIFIL memorandum indicates that in October 1994, the IDF began using a new tank shell loaded with flechettes fired from the MERKAVA MK - 1 and MK - 3. It again used the weapon twice

⁸⁶*Id.*

⁸⁷In 1993 a UNIFIL soldier was killed in southern Lebanon when he was struck in the head by one of these darts. Arieh O'Sullivan, *IDF Accused of Firing Dart Shells*, Jerusalem Post, 13 September 1999.

⁸⁸*Id.*

in January 1995.⁸⁹ These shells are designed to explode above the ground sending thousands of steel darts down to the ground.

⁸⁹*Information Concerning Flechette Shells Used by IDF*, UNIFIL Memorandum 23 January 1995.

Throughout the 1990's there were many reports of children being killed by such munitions. The deaths and injuries resulting from these munitions are particularly cruel and gruesome. A case in point, investigated by Human Rights Watch, occurred on 8 July 1995 when IDF gunners positioned inside the occupied zone fired flechette shells into the home of Khadija Bdeir in Nabatiyya Fawqa, killing two of her daughters, seventeen-year old Jihan, and twelve-year old Silvana, and her four-year old son Zakarriya.⁹⁰ Two of her other children were also injured by the shells, along with two neighbors. IDF forces had fired four flechette shells at the home. The use of these weapons caused unconscionable suffering to these children.⁹¹ Four-year old Zakarriya was hit with seven flechettes in the head, and nine in his abdomen. One of the flechettes sliced completely through his brain. He slowly bled to death in a hospital several days later where doctors were unable to save him. Jihan died in the hospital after having been in cardiac arrest caused by a flechette lodged in her heart. She also had a flechette in her back and several holes in her legs. Silvana had an abdominal hemorrhage and went into a coma from blood loss. The veins and arteries in her stomach had been severed by the flechettes. She also died in the hospital after doctors were unable to save her life.

In an article published by the London Independent, Robert Fisk describes an attack on a seventy year old Lebanese farmer in July 1997 in Addchit el-Qsair, a village within the Israeli occupied zone:

....as he walked into the field to pray, an Israeli Merkava tank a mile and a half away on the opposite hill fired seven shells at him, each round packed with thousands of tiny steel "flechette" arrows – a weapon banned under international law. Ahmed Sweidan was torn to pieces. Yesterday his dark dried blood still stained the cornfield, his green plastic jug on its side in the stubble. All across the field where he died lay hundreds of those tiny steel darts. I found dozens of them – an inch and a half long, each with four fins, painted green and grey – lying in the piles of grain, embedded in solid rock, pinpricked into two scared crows that Ahmed Sweidan had erected to keep the birds from his animal feed. He had died the death of a thousand cuts.⁹²

The shelling continued for a period of seven minutes. The Israeli Merkava tank is equipped with thermal imagery, and therefore must have been able to see Sweidan.⁹³

There are many other reports of flechette shells being used against civilians in Lebanon.⁹⁴

⁹⁰*Civilian Pawns*, *supra* note 9.

⁹¹A Lebanese doctor treating victims of flechette injuries told HRW "When the nail enters the body, it is like a drill [because the tail is spinning]." The doctor explained that the "tail end does additional damage as the nail moves, ripping apart tissue as it spins." *Civilian Pawns*, *supra* note 9.

⁹²Robert Fisk, *Israelis' Outlawed Weapon Kills Again*, The London Independent, 15 July 1997.

⁹³*Id.*

⁹⁴Other incidents of unlawful use of flechette shells against civilians reported in the press reports include, inter alia:

In October 1994, IDF firing from positions in Khiam, a town inside the occupied zone, used cluster munitions loaded with

flechette shells releasing thousands of steel nails on houses in the town of Nabatiyah al Fawqa and Barti killing seven civilians. *Israeli Shelling Rises, Banned Bombs Reportedly Used*, British Broadcasting Corporation, 22 October 22 1994.

·In December 1995, IDF fired flechette shells into the home of Ali Ibrahim Mansour, 20, killing him and injuring three others, including a 17 year old boy by the name of Osama Fahs. *One Dead Three Wounded in Israeli Bombardment of Lebanon*, Associated Press, 29 December 1995.

·On December 12, 1996 the Monitoring Group, a five-nation committee monitoring a truce between Israel and Lebanon held Israel responsible for shelling a residential neighborhood in Israeli-occupied Kfar Tebnit with flechette rounds, injuring six Lebanese civilians, including a fourteen year old boy. *South Lebanon Truce Monitoring Panel Ends Meeting*, Agence France Presse, 12 December 1996; *Monitor Blames Israel in Shelling*, Washington Post, 13 December 1996.

·In August 1997 Israeli cabinet member admitted to the use of flechette shells in southern Lebanon. Martin Regg Cohn, *Cycle of Violence Spins Out of Control in South Lebanon*, Toronto Star, 24 August 1997.

·In October 1997, the Monitoring group found that IDF fired flechette rounds into a civilian area of Nabatiyyeh, destroying several houses. *Monitoring Committee Calls on Warring Factions to Avoid Civilians*, Deutsche Presse Agentur, 6 October 1997.

·In May 1999, Israeli flechette bombs fell near the Majdal Zun School in the Israeli occupied zone causing panic and extensive damage to the school and nearby homes. *Beirut Radio Reports Clashes, Israeli Air Raids in Southern Lebanon*, British Broadcasting Corporation, 14 May 1999.

·In September 1999, UNIFIL filed a complaint with the IDF regarding its unlawful use of flechette shells. Arieh O'Sullivan, *IDF Accused of Firing Dart Shells*, Jerusalem Post, 13 September 1999.

·Israel recently admitted using flechette shells against Palestinians. Arieh O'Sullivan, *IDF Admits Using Flechette Shells Against Palestinians*, Jerusalem Post, 13 June 2001.

International humanitarian law strictly prohibits the use of flechette shells against civilians or civilian structures.

The Illegal Use of Cluster Munitions:

Israel has long used cluster munitions in Lebanon. There are conflicting reports as to whether the IDF continued to engage in the illegal use of cluster bombs in Lebanon, other than those containing flechette shells, after the 1980's. Nevertheless, the problem of cluster bomb contamination must be addressed in this Report because it is so pervasive and continues to injure and take the lives of children in Lebanon to this day.

Although there are different types of cluster bombs, typically, a cluster bomb releases between 200-600 baseball-sized bomblets over a 50-200 square meter area. The bomblets can be round, triangular, or cylindrical. Tragically, their shapes tend to make them particularly attractive to children.⁹⁵ Bomblets can carry anti-personnel, anti-tank, incendiary or chemical payloads, and can be equipped with timers or sensors that turn them into landmines. In addition, presumably by design, the failure rate of the bomblets can range anywhere between 15 and 30 percent. Such bomblets can remain on the ground for decades and then detonate with the slightest disturbance; even a change in the weather. Clearing cluster bombs can be more dangerous than clearing mines. Even a two-way radio signal between clearers can set off cluster bomblets.

The threat posed by unexploded cluster munitions is, in some ways, more grave than that posed by landmines because the explosive power can be far more deadly. There are countless news reports of Lebanese children who found bomblets, thought they were toys, and were gravely injured or killed by them.

For instance, in November 1990, three children, ten-year old Mohamad Ghazawi, his six-year old brother Saeed, and eleven-year old Ammar Majdoub, were killed by a cluster bomb explosion on their way home from school in the village of Ghazza in the Bek'aa Valley in eastern Lebanon. Rescue workers said that "the bodies were mutilated beyond recognition and [that] pieces of their organs littered the ground."⁹⁶

In another instance, on 2 December 1999, in the southern town Toul in Nabatiyyeh, ten-year old Hassan Zahri, five-year old Bilal Hassan Zahri, and their twelve-year old cousin Kasseem Mohamad Zahri, and nine-year old Abbas Mohamad Zahir were playing in a field when they spotted what appeared to be a

⁹⁵Warren Richey, *Cluster Bombs, Five Types Used in Lebanon*, Christian Science Monitor, 2 November, 1982.

⁹⁶*Three Children Die While Playing with a Bomb*, United Press International, 13 November 1990.

grey, metallic ball. They brought it home. Bilal's father described the tragedy:

The place where I work is directly underneath the house. While I was in the middle of my work, I heard the sound of an explosion. At first I thought that Israel had bombed the house. What a catastrophe I saw!!! Three little children were dangerously hit, while my little son Bilal looked into my face with his little eyes and died instantly. Two of my nephews were suffering from severe wounds. My son Ali was also [severely wounded]. [My son] Bilal was hit with wounds directly in the heart, his legs were torn, and there were hits in all of his body. The house was a pool of blood as a result of that cursed mine that caused the loss of my child.⁹⁷

A recent study by the International Committee for the Red Cross found that “compared with landmines, those injured or killed by cluster bombs were 4.9 times as likely to be children under the age of fourteen.”⁹⁸

For many years, Israel purchased the cluster bombs that it used in Lebanon from the United States. In 1982, United States congressional hearings were held, and an international commission was set up to investigate Israel's extensive and illegal use of cluster bombs on civilian areas of Lebanon.⁹⁹ In July of that year, the United States announced its decision to freeze the shipment of 44,000 cluster bombs to Israel.¹⁰⁰

⁹⁷ Affidavit of Hassan Kassem Zehri.

⁹⁸ Alexander G. Higgins, *Red Cross Urges Cluster Bomb Halt*, Associated Press, 5 September 2000.

⁹⁹ Jonathan Broder, *Israel Denies High Tech Smuggling Charge*; Chicago Tribune, 10 July 1986; MacBride Commission Report; Mark Mathews, *US Weapons Fan Violence in Middle East, Critics Charge*, The Baltimore Sun, 27 May 2001.

¹⁰⁰ *US President's Decision to Suspend Deliveries of Cluster Bombs*, British Broadcasting Corporation, 22 July 1982.

From 1982 to 1988, the United States government barred Israel from acquiring cluster bombs.¹⁰¹

In 1986, United States congressional hearings were again held after Israel illegally acquired United States cluster bomb technology.¹⁰² In defiance of prohibitions from acquiring such weaponry, Israel has since become a major producer and exporter of cluster bombs.¹⁰³

¹⁰¹ *Id.*

¹⁰² Jonathan Broder, *Israel Denies High Tech Smuggling Charge*, Chicago Tribune, 10 July 1986. See also MacBride Commission Report *supra* note 7.

¹⁰³ *Human Rights Watch Cluster Bomb Memorandum to Delegates to April Preparatory Committee for 2001 Review Conference for the Convention on Conventional Weapons (CCW)*, Arms Division of Human Rights Watch, 2 April 2001 hereinafter (“HRW 2 April 2001 Memo”). The memorandum lists Israel among 18 countries believed to be producing cluster bombs, and among the nine countries believed to be exporting cluster bombs. The report also lists Lebanon among the fifteen countries most affected by cluster bombs contamination.

The Lebanese government maintains that Israel used cluster bombs in Lebanon after 1990.¹⁰⁴ There are many press articles that support that contention. However, whether cluster munitions, other than those that are tank-fired, were used is disputed. Some evidence suggests that they were.

For instance, in an interview with *Jane's Defence Weekly* two months after the Grapes of Wrath offensive, Israeli General Bodinger discussed Israel's use of the A-4 Skyhawk, stating that it "flew many missions during the recent operations over southern Lebanon." The article further states:

The air-refuellable IDF/AF-4N version of the Skyhawk has been seen carrying nine Israel Military Industries - manufactured ATAP-1000 cluster bombs (each containing 1,098 anti-personnel and anti-tank bomblets). . . . The A-4 being a very simple straight forward fighter to fly, the IDF/AF uses it to give young pilots their first squadron experience before moving to the F-15, F-16 or Phantom 2000. Joris Jansen Lok, *Surplus US Fighter Swell the Air Fleet*, June 19, 1996 *Jane's Defence Weekly*.¹⁰⁵

Lebanon is listed among the 15 countries believed to be the most affected by cluster bomb contamination. The amount of unexploded cluster munitions, and the areas in which they are primarily located, give rise at least to an inference that cluster bombs may have been dropped in Lebanon from IDF planes over the past ten years. For example, in November 1982, French, Italian and American munitions specialists found that "more than 1,800 unexploded cluster bomblets still remained in Lebanon, mostly near Corniche Mazra and the Beirut Airport area."¹⁰⁶ Today, munitions experts estimate that there are some 11 metric tons of landmines and unexploded ordnance in the 70 square kilometer area that forms the southern

¹⁰⁴ After a cluster bomb explosion took the life of another child in Toul, Lebanese police found another cluster bomb in the same area and indicated to Deutsche Presse Agentur that the cluster bombs in question "dated back to Israel's 17 day blitz against Lebanon in 1996." *Lebanese Army Dismantles Cluster Bombs in South Lebanon*, Agence France Presse, 13 February 1999.

¹⁰⁵ Joris Janssen Lok, *Surplus US fighters Swell Israel's Air Fleet*, *Jane's Defence Weekly*, 19 June 1996.

¹⁰⁶ *Christian Science Monitor*, *supra* note 95.

Bek'aa valley alone.¹⁰⁷ The Bek'aa Valley area was not an area reported to be particularly contaminated with cluster bombs in the 1980's. Today it is extremely contaminated with unexploded cluster bombs.¹⁰⁸ One report indicates that as many as one out of every two families in the Bek'aa Valley has suffered a tragedy related to unexploded ordnance.¹⁰⁹ The Bek'aa valley, which the IDF claims is a Hizbollah stronghold, is an area that sustained continuous aerial bombardment by IDF throughout the 1990's.

¹⁰⁷ *Children and Landmines in Lebanon*, Near East Foundation, Lebanon 2001 Report.

¹⁰⁸ James Trevelyan, *Landmine and Unexploded Ordnance Problem in Lebanon*, Demining Research (Western Australia 2000).

¹⁰⁹ *Children and Landmines*, *supra* note 107.

From 1993 to 1999, there were many press reports of IDF forces dropping cluster bombs in southern Lebanon, particularly inside the security zone.¹¹⁰

There is increasing international consensus that cluster bombs should be banned altogether.¹¹¹ Even if the use of these weapons is not *per se* illegal against military targets, their use on civilians and civilian objectives is.

V. The Rigging of Toys with Explosives

Throughout the course of the Israeli occupation of southern Lebanon, there were many reports of Lebanese children being maimed and dismembered by toys rigged with bombs or explosive devices. A Lebanese army official charged with de-mining stated that the IDF dropped rigged-toys from planes during the occupation.¹¹²

There appear to be two types of incidents in which civilians complain of children being injured or killed with toys rigged with explosives. In some instances, the injuries had actually been caused by toys rigged with explosives. In other instances, it appears that the children found mines or unexploded ordnance – e.g., cluster bombs – which they thought were balls.

¹¹⁰ A few examples of press reports in 1995 are:

·In January 1995 London Independent reported that UN officers stated IDF used cluster bombs in the south for the first time since their 1982 invasion. Robert Fisk, *Lebanon Sees Bid to Disturb the Peace*, London Independent, 8 January 1995.

·In January 1995, Associated Press reported that IDF fired 20 cluster bombs from the Israeli gun placements around the village of Khiam in the central area of the occupied zone. *Israelis Fire Cluster Bombs in South Lebanon*, Associated Press, 3 January 1995.

·In July 1995, United Press International reported that “IDF fired more than 40 cluster bombs onto the villages of Majdel Selim, Shaqra, Baarachite and Mansouri in southern Lebanon.” *Muslim Guerrillas Fire Rockets at Israel*, United Press International, 9 July 1995.

·In November 1995, the Xinhua News Agency reported that “in a fierce day of air raids, IDF forces fired 80 cluster bombs and 200 heavy artillery shells at southern Lebanese villages near the zone of occupation.” *Israeli Jets Blast Hezbollah Bases in South Lebanon*, Xinhua News Agency 30 November 1995.

·As recently as May 1999, Agence France Presse reported that Israel dropped five cluster bombs in Aita al-Jabal, east of Tyre, damaging homes and a mosque. *Israeli Jets Raid Southern Lebanon* Agence France Press, 17 May 1999.

¹¹¹The International Committee for the Red Cross has been calling on countries to suspend the use of cluster bombs until an international agreement on their use and clearance is achieved. Alexander Higgins, *Red Cross Urges Cluster Bomb Halt*, Associated Press, 7 February 2002. Human Rights Watch has been calling for a global moratorium on the use of cluster bombs. HRW 2 April 2001 Memorandum *supra* note 103.

¹¹²Interview with Lebanese De-mining Official, April 2001.

The following are some examples of cases where children were injured by toys rigged with explosives:

· On 1 April 1997, Mariam Ali El Boustany, at the time twelve-year old, went on a picnic with neighbors in the countryside in Dier Amous. She and the other children had been playing in the field:

. . . we decided to go and pick some of the fresh green thyme since it was customary for children to gather thyme and bring it to one's family. While we were gathering the thyme, my brother and I found a toy in the midst of a bed of thyme. We got excited that we found it, and we put it inside the bag of thyme. The toy was the shape of a jeep. Then we went back to the house. We returned to our house at 5:30. At that time, my friends asked me to go along with them to their house so we could continue the gathering. I told them that I didn't want to because I wanted to rest a little. But inside of me I was thinking about the toy that we found and how my brother Hasan and I would play with it. I changed my clothes and I said my prayers. Then I found my brother Hasan holding the rigged toy wanting to play with it. I approached him and told him to give the toy back to me, but he did not. He did not answer me. At this point, I pulled it from his hand, but I couldn't get it from him. I tried another time, pulling harder, holding it with more force, and I finally got it. I held it in my hand and on the side of it I noticed wire. When I pulled the wire the toy exploded between my hands. Pieces of my fingers flew away and two of my fingers were severed completely from my hand. I also was hit in my foot, and the left hand, and my chest and parts of my fingers and one finger flew and were stuck to the wall of the room.¹¹³

· On 6 September 1997, nine-year old Hussein Moussa Kheyer Eddine of Khboush El Baider was returning home from his grandfather's house:

. . . on the way back to our house, I was walking behind my mother and I found a toy that was in the shape of a propeller plane. My mother told me to throw it back on the ground. I told her I would, but I kept it and put it inside the bag of bread. The color of the plane was yellow and black. I hid it in the drawer so that my brothers would not find it and play with it. I kept it there until the next day. My mother was sleeping on the sofa and I was sitting beside her and I went toward the drawer and I put the toy between my legs and I started to play with it and when I pulled on the wires of the plane the airplane exploded. I did not feel pain. I ran toward the door because I was so scared and then I ran back toward my mother and I told her "Look, look what happened to me" I was covered with blood and I couldn't believe what happened to me.¹¹⁴

· On 12 February 1999 Joumana Ali Fahas, her husband and two sons Adam and Ahmad Moukaled went to the Toul region which is a very populated region of the south with many olive trees and frequented by family as a picnic area. The area was crowded with families that day:

My son Ahmad found a toy in the form of a canteen tarnished with beautiful colored glass. Around him were the other children. When Ahmad pulled the wire tied to the canteen, as quick as lightening, the toy produced a strange sound, as I was later told by the other children. The other children surrounding

¹¹³ Affidavit of Mariam Ali El Boustany.

¹¹⁴ Affidavit of Hussein Moussa Kheyer.

Ahmed ran away. And quicker than lightening the toy exploded. . . . My eyes followed a child flying up in the air. What a terrible sight I saw.¹¹⁵

¹¹⁵ Affidavit of Joumana Ali Fahas.

Five-year old Ahmad was torn to pieces by the explosion and died. Ahmad's friend, Mahmoud, suffered injuries to the head and all over his tiny body.¹¹⁶

In each of these three cases, the items were obviously designed to appear as toys, and contained wired-devices that were intended to trigger the detonation of the hidden explosives.

VI. The Planting of Landmines

After twenty-two years of occupying approximately 10 percent of Lebanese territory, Israel withdrew its forces from most of Lebanon. However, scattered throughout the hundreds of southern Lebanese towns and villages that comprised the occupied territory, are hundreds of thousands of landmines. After withdrawing its forces from this territory, Israel initially admitted to planting some 70,000 mines and 288 booby traps, and turned over the maps for that number.¹¹⁷ The accuracy of the maps were immediately questioned, and in January 2002, a year and a half later, Israel turned over additional maps showing a total of 405,000 mines.¹¹⁸ Many children have been injured and killed by these mines while Israel withheld information that could have assisted international efforts to clear mines, and to protect the civilians returning to reclaim their land. In 2000, 113 landmine civilian casualties and 14 civilian deaths by landmines were recorded.¹¹⁹ From 1 January to 6 June 2001, there were 35 civilian casualties and three deaths.¹²⁰

The exact location of most of these hidden weapons remains unclear. They include anti-personnel mines, unexploded ordnance, anti-tank mines, booby traps and roadside bombs.

¹¹⁶ Affidavit of Raed El Rahman Jaafar Moukaled.

¹¹⁷ Landmine Monitor Report, Lebanon 2001.

¹¹⁸ *Beirut receives Maps on 405,000 Mines Left By Israel in South Lebanon*, Agence France Presse, 29 January 2002.

¹¹⁹ *Id.*

¹²⁰ *Id.*

The problem of landmines and unexploded weaponry threatening civilians throughout Lebanon today is the combined result of the 1975-1990 Lebanese civil war and the Israeli occupation of the southern part of the country from 1978-2000, although some of the mine fields date back to the French Mandate and World War II. However, the vast majority of the mines in Lebanon were planted by Israeli occupying forces over the last two decades. It has recently been revealed that IDF laid new mines in old mine fields.

The clearing of mines and unexploded ordnance is a large and urgent task. The IDF have provided UNIFIL with maps of minefields, but the exact location of individual mines within the field is not known, and the majority remain unmarked. Moreover, there are many conflicting reports about the cooperation of Israel in the removal of these mines. Press reports in April 2001 indicated that Israel has turned over faulty maps to the United Nations with regard to the location of mines. Additionally, press reports indicate that Israel has been withholding information regarding landmine locations in an effort to exchange such information on a quid pro quo basis in return for meeting various demands. The full cooperation of all parties to the conflict responsible for the planting of mines is an imperative for humanitarian reasons.

REPARATIONS

In 2002, hostilities continue in the Israel-Lebanon border area. As a result, children in Lebanon remain at risk. Israel should be asked to commit itself to non-repetition of acts of violence against children in Lebanon. This Committee should also recommend that Israel make reparations to the victims, and to families of non-surviving victims, for its acts in violation of Article 6 of the Convention.

Although the Convention, like a number of other human rights treaties, does not explicitly require reparations, in the form of monetary compensation or otherwise, any state that violates a treaty obligation is required to make good the losses it has occasioned. As the International Court of Justice has explained, treaties function against the background of the law of state responsibility.¹²¹ The law of state responsibility requires a state that has committed an internationally wrongful act to restore the status quo ante, if possible, or failing that, to make reparations. "The State responsible for an internationally wrongful act is under an obligation to compensate for the damage caused thereby, insofar as such damage is not made good by restitution."¹²² The obligation to compensate, in the case of a human rights violation, runs to the victim of the violation, as indicated in Article 48, of responsibility of States for internationally wrongful acts which refers to a state's obligation to make compensation when an "obligation breached is owed to the international community as a whole."

¹²¹ *Case Concerning the Gabčíkovo-Nagymaros Project* (Hungary/Slovakia), Judgment, ¶ 152, September 25, 1997.

¹²² Responsibility of States for Internationally Wrongful Acts, art. 36, International Law Commission, *Report of the International Law Commission on the Work of its Fifty-third Session*, UN General Assembly, Official Records, 56th Session, Supplement No. 10, p. 43, UN Document A/56/10 (2001).

When a state's soldiers arbitrarily kill, monetary compensation is required. For instance, in a case before the Inter-American Court of Human Rights, a state's soldiers had arbitrarily killed fourteen persons. The Court ordered monetary compensation for pecuniary loss plus moral damages. Total damages awarded amounted to \$722,322. The Court stated that the extreme gravity of the violation of the right to life requires substantial monetary damages. It said that "restitution in integrum" could not be enforced because the victims had been killed, so that "reparation to the victims' next of kin and dependents must take alternative forms, such as pecuniary compensation."¹²³

¹²³ *El Amparo v. Venezuela*, Judgment on reparations, September 14, 1996, reported in *Human Rights Law Journal*, vol. 18, p. 188 (1997).

Where numbers of persons are killed, remedies can be fashioned that include individual payments to victims and their families, as well as payment for communal services, such as treatment of persons with post-traumatic mental effects, or other appropriate communal services. The Inter-American Court of Human Rights decreed such a remedy in a case in which a state's soldiers had arbitrarily killed seven persons. The Court ordered payments for the deaths of individual victims. Total damages awarded to victims and relatives were US\$453,102. Additionally, it ordered that the state open a school for children in the village where the victim families lived. The Court stated that customary international law requires monetary compensation for violations of human rights.¹²⁴ In the present case, many more persons have been killed than in the two cases that were heard by the Inter-American Court of Human Rights.

CONCLUSION AND RECOMMENDATIONS

The acts described in this Report only represent a small fraction of those committed by the IDF in Lebanon in violation of Article 6 of the Convention. This conduct has affected the lives of thousands of Lebanese children and their families. The repercussions of these violations will continue for many generations. They include not only the actual deaths of many of the victims, but also the physical suffering of survivors, and their long-term emotional suffering, as well as that of their families. These damages are incalculable. However, we request that the Committee recommend, in addition to any other recommendations it deems appropriate to prevent further IDF violations in Lebanon, that Israel provide appropriate reparations to the victims. We further ask the Committee to recommend that Israel do the following:

- Refrain from targeting or indiscriminately attacking civilian objectives or areas populated with civilians.*
- Publicly commit to abiding by international humanitarian laws and fundamental human rights standards.*
- Order the IDF to conduct a review of its operational guidelines used in conflict. This review should be public and conducted by a special commission including independent legal experts.*
- Order the IDF to develop and abide by new guidelines including strict rules on the use of air power, artillery and other potentially indiscriminate weapons. These rules should conform to internationally recognized standards.*
- Make a public commitment to ban the use of flechette shells, white phosphorous and other incendiary munitions by its forces, and to investigate those incidents in which they were used in civilians areas.*
- Investigate all of the alleged violations of humanitarian law and international human rights by IDF forces. Persons suspected of violating the laws of war should be tried and sentenced. The trials and sentencing should be public.*

¹²⁴*Aloeboetoe v. Suriname*, Judgment on Reparations, 10 September 1993, reported in Human Rights Law Journal, vol. 14, p. 413 (1993)