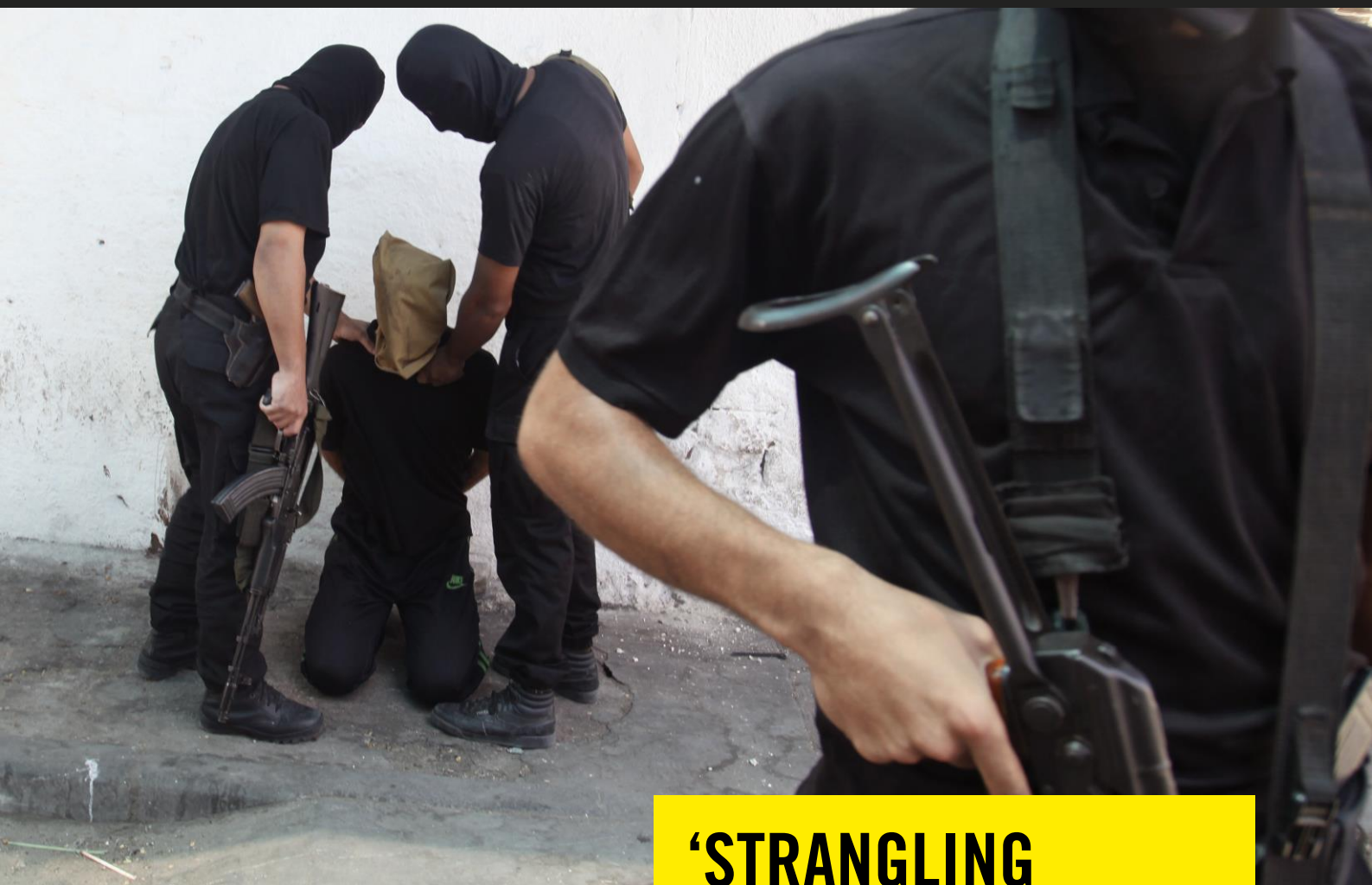


Flygtningenævnets baggrundsmateriale

Bilagsnr.:	265
Land:	Gaza-Vestbredden
Kilde:	Amnesty International
Titel:	Strangling Necks-Abductions, torture and summary killings of Palestinians by Hamas forces during the 2014 Gaza/Israel conflict
Udgivet:	26. maj 2015
Optaget på baggrundsmaterialet:	17. september 2015



‘STRANGLING NECKS’

ABDUCTIONS, TORTURE AND SUMMARY
KILLINGS OF PALESTINIANS BY HAMAS
FORCES DURING THE 2014 GAZA/ISRAEL
CONFLICT

AMNESTY
INTERNATIONAL



Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

AMNESTY
INTERNATIONAL



First published in 2015 by
Amnesty International Ltd
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom

©Amnesty International 2015

Index: MDE 21/1643/2015 English
Original language: English
Printed by Amnesty International,
International Secretariat, United Kingdom

All rights reserved. This publication is copyright, but may be reproduced by any method without fee for advocacy, campaigning and teaching purposes, but not for resale. The copyright holders request that all such use be registered with them for impact assessment purposes. For copying in any other circumstances, or for reuse in other publications, or for translation or adaptation, prior written permission must be obtained from the publishers, and a fee may be payable. To request permission, or for any other inquiries, please contact copyright@amnesty.org

Cover photo: Hamas militants grab a Palestinian suspected of collaborating with Israel before he is executed in Gaza City, 22 August 2014. ©REUTERS/Stringer

amnesty.org

CONTENTS

Executive summary	5
Methodology.....	8
Background	9
Gaza's criminal justice system under Hamas.....	11
Abductions, torture and unlawful killings of alleged collaborators	13
Ayman Taha	15
Other killings during the period	27
Abductions, torture and assaults of members of Fatah and PA security forces	28
Applicable law	34
International humanitarian law	34
International human rights law	35
International criminal law	37
Palestinian law	37
Conclusion and recommendations.....	42
To the Palestinian authorities.....	42
To the Israeli authorities.....	43
To other governments.....	44

EXECUTIVE SUMMARY

Hamas forces in Gaza committed serious human rights abuses, including abductions, torture, and summary and extrajudicial executions with impunity in 2014. To date, no one has been held to account for committing these unlawful killings and other abuses, either by the Hamas de facto administration that continues to control Gaza and its security and judicial institutions, or by the Palestinian “national consensus” government that has had nominal authority over Gaza since June 2014.

Hamas forces committed these abuses at the time of Israel’s 50-day military offensive against Gaza, codenamed Operation Protective Edge, which began on 8 July and ended on 26 August 2014. The offensive, the third such punitive Israeli military operation against Gaza since 2008, caused unprecedented damage and destruction to civilian life in Gaza. According to the UN, Israel inflicted the highest number of civilian casualties among Palestinians in a single year since it occupied the West Bank and Gaza Strip in 1967.

Israeli military forces committed war crimes and other grave violations of international law during Operation Protective Edge. Israeli air and ground attacks killed more than 1,500 civilians, including more than 500 children, and caused massive destruction to civilian infrastructure. The impact of this devastation has been exacerbated since Operation Protective Edge by Israel’s continuing air, sea and land blockade of Gaza, which it has imposed since 2007. The extent of the casualties and destruction in Gaza wrought by Israeli forces far exceeded those caused by Palestinian attacks on Israel, reflecting Israel’s far greater firepower, among other factors. The war understandably caused public outrage in Gaza against Israel and those who supported or condoned its offensive, including other states and, specifically, Palestinians within Gaza who were accused of acting as Israeli informants or “collaborators”. During the period of Operation Protective Edge, Hamas and Palestinian armed groups in Gaza committed war crimes by firing thousands of indiscriminate rockets and other projectiles into southern Israel.

Amnesty International has been unable to send a delegation to visit the Gaza Strip since the beginning of the July/August 2014 conflict. Amnesty International consequently had to carry out research on this report remotely, supported by a fieldworker based in Gaza. The organization conducted interviews with former detainees, prisoners’ families, witnesses to abuses, human right activists, journalists and others. Among other documentation, it reviewed and analysed written reports of court proceedings, medical reports, death certificates, public statements issued by Hamas and Palestinian groups in Gaza. Amnesty International wrote to the Palestinian authorities in December 2014 to request comments on its findings, but received no response.

Within Gaza, Hamas forces also targeted Palestinians they accused of assisting Israel. They subjected at least 23 people to summary, extrajudicial executions. Six of these men, at least one of whom was arrested during the conflict on suspicion of “collaboration” but never formally charged, were extrajudicially executed in public on 22 August 2014. Three men died in custody in suspicious circumstances just a few days after they were arrested and tortured. The fate and whereabouts of another man whom Hamas forces detained and

subjected to enforced disappearance in the first week of Operation Protective Edge remains unknown more than nine months after the conflict ended. In addition, a leading member of Hamas, Ayman Taha, who had been held by the 'Izz ad-Din al-Qassam Brigades (al-Qassam Brigades) since January 2014 on suspicion of treason but, to Amnesty International's knowledge, was not presented with any formal charges, appears to have been summarily killed. Hamas forces also abducted or attacked members and supporters of Fatah, their main rival political organization within Gaza, including former members of the Palestinian Authority (PA) security forces, torturing some of them.

This report documents 17 of the summary, extrajudicial executions committed by Hamas forces during Operation Protective Edge. In six cases, those executed had been sentenced to death by military courts in Gaza on charges of "collaborating" with Israel brought under the Palestinian Liberation Organization (PLO) Revolutionary Penal Code of 1979. However, at the time of their execution they were still awaiting the outcome of appeals against those death sentences. Two others had been convicted and sentenced to prison terms, one to life imprisonment, and the other to 15 years. All eight had been sentenced after trials before courts whose proceedings are unfair and fail to respect due process. Some alleged in court that they were tortured in pre-trial detention and forced to "confess" to "collaboration" with Israel. Eight other detainees facing "collaboration" charges were taken out and summarily executed although their trials had yet to be completed.

Prior to their executions, all of the victims were held by Gaza's Hamas de facto administration at Katiba Prison under the authority of the Gazan Ministry of Interior as alleged "collaborators" with Israel; in most cases known to Amnesty International, they faced charges under the PLO Revolutionary Penal Code of 1979 but were still standing trial at the time of their execution.

Hamas forces used the abandoned areas of al-Shifa hospital in Gaza City, including the outpatients' clinic area, to detain, interrogate, torture and otherwise ill-treat suspects, even as other parts of the hospital continued to function as a medical centre.

The report also describes other cases in which Hamas forces abducted, torture or assaulted perceived opponents, particularly members of the rival Fatah party and former members of the PA security forces in Gaza, in some cases causing their deaths. These abuses too were committed with impunity.

Many of the arrests looked more like abductions – with armed men in civilian clothes, sometimes masked, who did not present identification or a legal basis for arrest, forcing the suspects into a car and taking them to locations unknown to their families. The suspects would often be beaten in the car and the beatings would continue at the place of detention and during the interrogation.

In every case Amnesty International has documented, it has uncovered evidence of Hamas forces using torture during interrogation with the apparent aim of extracting a "confession" from the detainee. Testimonies indicate that victims of torture were beaten with truncheons, gun butts, hoses, wire, and fists; some were also burnt with fire, hot metal or acid. In several cases family members of victims described to Amnesty International various injuries inflicted

on the detainees, such as broken bones – including of the spine and neck bones – trauma to the eyes, as well as damage, punctures or burns to the skin.

The torture and summary killing of people in captivity – including suspected “informers” or “collaborators” – are, when committed in the context of an armed conflict, serious violations of international humanitarian law, constituting war crimes.

The Palestinian authorities should ensure that allegations of such crimes are impartially and independently investigated and bring the perpetrators to justice in proceedings that fully respect international fair trial standards and exclude the death penalty.

METHODOLOGY

Amnesty International has been unable to send a delegation of researchers, including medical and other experts, to visit the Gaza Strip since the beginning of the July/August 2014 conflict. The Israeli authorities have refused, up to the time of finalizing this report, more than nine months after the hostilities ended, to allow Amnesty International and other researchers from international human rights organizations to enter the Gaza Strip through the Erez crossing with Israel, despite the organization's repeated requests for entry since the beginning of the conflict. Neither have the Egyptian authorities granted Amnesty International permission to enter the Gaza Strip through the Rafah crossing with Egypt, again despite the organization's repeated requests for access.

Amnesty International consequently had to carry out research on this report remotely, supported by a fieldworker based in Gaza. The organization conducted interviews with former detainees, prisoners' families, witnesses to abuses, human right activists, journalists, and others. It reviewed and analysed written reports of court proceedings, medical reports, death certificates, public statements issued by Hamas and other Palestinian groups in Gaza, as well as media reports and reports and other documentation issued by UN agencies, Palestinian and Israeli NGOs, and others.

Amnesty International wrote in December 2014 to Palestinian President Mahmoud Abbas and Minister of Justice Salim al-Saqqah, one of the four Gaza-based ministers in the Palestinian "national consensus" government, summarizing its findings and concerns, inviting comment on these and asking about any official investigations into the serious human rights abuses documented. No responses had been received, however, by 22 May 2015, as this report was finalized.

Some names of victims and others have been omitted from the report to safeguard them against possible reprisals by Hamas forces or others.

BACKGROUND

Israel has been the occupying power with overall control of the Occupied Palestinian Territories since June 1967. The Oslo Accords agreed between Israel and the PLO in 1994 provided for a degree of Palestinian self-rule in parts of the West Bank and the Gaza Strip.

Neither the establishment of the Palestinian Authority (PA) in 1994 nor the recognition of Palestine as a non-member observer state at the UN General Assembly in 2012 changed the status of the Occupied Palestinian Territories under international law; they remain territories under Israeli military occupation over which Israel maintains effective control, including control of the population, natural resources and, with the exception of Gaza’s short southern border with Egypt, their land and sea borders and air space.

In 2006 Hamas won elections to the PA’s legislature. This led a number of states to impose economic and other sanctions and increased tensions with Hamas’s rival party, Fatah, culminating in violent conflict. Within Gaza, armed clashes between security forces and militias loyal to Fatah on the one hand and Hamas on the other escalated in the first half of 2007 and resulted in Hamas seizing control of PA institutions in the Gaza Strip. Following this, Hamas installed a de facto administration that has remained in power there since June 2007. For almost seven years two separate Palestinian governments operated – one dominated by the Fatah party in the West Bank, and one run by the Hamas party in the Gaza Strip. This situation persisted until unity talks resulted in the appointment of a “national consensus” government, including four ministers from the Gaza Strip, which was sworn into office by Palestinian President Mahmoud Abbas on 2 June 2014. The cabinet of independent technocrats was tasked with running civilian affairs in both areas and preparing for parliamentary and presidential elections. However, very significant disagreements between Fatah and Hamas remain unresolved, no date for elections has been set, and the “national consensus” government has yet to assume most of its functions in the Gaza Strip, where the Hamas de facto administration continues to control government institutions and the security forces in practice.

On 8 July 2014, before the deal for a “national consensus” government had been implemented, Israel launched a military operation codenamed Operation Protective Edge, the third major offensive in Gaza since 2008. By the time a final ceasefire agreement was reached on 26 August 2014, 50 days later, the Israeli offensive had killed 2,256 people in Gaza, including 1,568 civilians, according to the UN Office for the Coordination of Humanitarian Affairs (OCHA). The dead included 538 children and 306 women. More than 11,000 other Palestinians were injured, many permanently. According to the UN, Israel inflicted the highest number of civilian casualties among Palestinians in a single year since it occupied the West Bank and Gaza Strip in 1967.¹

¹ Office for the Coordination of Humanitarian Affairs, Occupied Palestinian Territories, *Fragmented Lives: Humanitarian Overview 2014*, March 2015, http://www.ochaopt.org/documents/annual_humanitarian_overview_2014_english_final.pdf (last accessed

The UN estimated that about 18,000 housing units were destroyed or rendered uninhabitable, leaving approximately 108,000 people homeless. A further 37,650 housing units were damaged. The economic infrastructure in Gaza was seriously degraded by Israeli attacks; the only power plant was damaged, as was the wastewater system, leaving 20 to 30% of households without access to municipal water. In an area with 45% unemployment, 419 businesses and workshops were damaged, of which 128 were destroyed, according to the Palestinian Federation of Industries. Since the end of the conflict, its destructive impact has been exacerbated by Israel's continuing blockade, in force since June 2007, which severely curtails imports and prevents all or most exports. This contributes to widespread impoverishment of Gaza's 1.8 million inhabitants and hampers post-conflict reconstruction.

As Amnesty International has reported elsewhere, Israeli military forces committed war crimes and other grave violations of international law during Operation Protective Edge.² The extent of the casualties and destruction in Gaza wrought by Israeli forces far exceeded those caused by Palestinian attacks on Israel, reflecting Israel's far greater firepower, among other factors. The war understandably caused public outrage in Gaza against Israel and those who supported or condoned its offensive, including other states and, specifically, Palestinians within Gaza who were accused of acting as Israeli informants or "collaborators". During the period of Operation Protective Edge, Hamas and Palestinian armed groups in Gaza committed war crimes by firing thousands of indiscriminate rockets and other projectiles into southern Israel, which Amnesty International has reported on elsewhere.³

The agreement between the Palestinian political factions, mainly Fatah and Hamas, leading to the formation of the June 2014 "national consensus" government failed to address the fact that both Fatah and Hamas operate their own security apparatuses and criminal justice systems. Within Gaza, the administration of criminal justice was left under the Ministry of Interior of the Hamas de facto administration, meaning that the law enforcement and justice system developed by Hamas following its seizure of power in Gaza in 2007 remains in place. Gaza's police and other security forces, prisons administration, and judiciary are composed almost entirely of Hamas members and supporters and those closely linked to the al-Qassam Brigades, the armed wing of Hamas.

20 May 2015).

² Amnesty International, "Evidence of medical workers and facilities being targeted by Israeli forces in Gaza" (Index: MDE 15/023/2014), <http://www.amnesty.org.uk/press-releases/gaza-new-evidence-deliberate-attacks-medics-israeli-army> (last accessed 20 May 2015); Amnesty International, *Families Under the Rubble: Israeli attacks on inhabited homes* (Index: MDE 15/032/2014), <https://www.amnesty.org/en/documents/mde15/032/2014/en/> (last accessed 20 May 2015); Amnesty International, *Nothing is Immune: Israel's destruction of landmark buildings in Gaza* (Index: MDE 15/0029/2014), <https://www.amnesty.org/articles/news/2014/12/israels-destruction-multistorey-buildings-extensive-wanton-and-unjustified/> (last accessed 20 May 2015).

³ See Amnesty International's report, *Unlawful and deadly: Rocket and mortar attacks by Palestinian armed groups during the 2014 Gaza/Israel conflict* (Index: MDE 21/1178/2015), <https://www.amnesty.org/en/documents/mde21/1178/2015/en/> (last accessed 20 May 2015).

GAZA'S CRIMINAL JUSTICE SYSTEM UNDER HAMAS

The Hamas de facto Ministry of Interior commands a security force of more than 12,000, a number that includes: the National Security Force, Civil Police, Security and Protection Apparatus, and the Internal Security force.⁴ The Ministry also controls the Department of Reform and Rehabilitation, which administers prisons in Gaza, including Abu Obaida Ibn Jarrah Prison in Beit Lahiya and Katiba Prison and Ansar Prison in Gaza City, which, along with the newly constructed prison in Rafah, were bombed by Israel during the recent conflict.⁵ There are 20 police stations across the Gaza Strip, some with capacity to hold detainees; during the recent conflict, at least two police stations, al-Tuffah and Jabalia, were bombed by Israel.⁶ Internal Security runs seven detention centres across the Strip, three of which are in Gaza City, including its main detention and interrogation centre, commonly known as Qasr al-Hakem, which was also bombed in the hostilities. The Ministry of Interior's Inspector General oversees all security forces and their office includes a human rights unit whose function is to receive complaints about abuse. In addition, the Ministry of Interior reportedly facilitates complaint mechanisms allowing citizens to lodge complaints about civil matters or abuse, including human rights violations.

The justice system in Gaza has been in place since 2007 and includes Shari'a, administrative, civil, criminal, and military courts. Military courts hear cases involving members of the security forces, members of other Palestinian factions and their military wings, as well as persons suspected of collaboration with Israel, who are subject to prosecution under the PLO Revolutionary Penal Code of 1979. This code was developed by PLO structures in exile prior to the establishment of the PA, remains in force, and forms the basis of the military justice system. Palestinian human rights groups in Gaza have refused to represent detainees before the military courts, which they consider illegitimate.

During an Amnesty International visit to Gaza in June and July 2012 delegates met with various officials at the Ministry of Interior, including the deputy commander of Internal Security, and conducted inspection visits to prisons and detention centres. In response to concerns Amnesty International raised regarding the treatment of prisoners and detainees, Hamas officials said that their forces were not properly trained and required international assistance to develop the security and criminal justice system to adhere to international standards, but that they were not able to get this training due to the Israeli blockade. The blockade has impeded the development of the civil institutions in Gaza since 2007, including the non-governmental sector. Moreover, official civil and judiciary institutions have been targeted by Israel during the military offensives against Gaza conducted since 2008. This has included the bombing of buildings that host such institutions.

⁴ Yezid Sayigh, *Policing the People, Building the State: Authoritarian Transformation in the West Bank and Gaza*, The Carnegie Papers, 2011, p. 6
http://carnegieendowment.org/files/gaza_west_bank_security.pdf (last accessed 20 May 2015).

⁵ *al-Watan Voice*, "Heavy bombardment of the headquarters of internal security and the new prison in Rafah, injuries in Beit Lahia, 186 martyrs", 14 July 2014,
<http://www.alwatanvoice.com/arabic/news/2014/07/14/567415.html> (in Arabic, accessed 20 May 2015).

⁶ Deutsche Welle, "Military operations resume in Gaza after truce", 4 August 2014, <http://bit.ly/1JSVysi> (in Arabic, accessed 20 May 2015).

Amnesty International is concerned that the bodies and mechanisms set up by the Hamas de facto administration to carry out law enforcement and the administration of justice lack the necessary skills, independence, oversight, and accountability to ensure that the rule of law is respected for both victims and accused; to protect individuals from human rights abuses against them; to ensure that victims have access to effective mechanisms to obtain redress; and that accused persons are afforded due process. On the contrary, it seems clear that perpetrators of human rights abuses continue to enjoy impunity, and that the Hamas de facto administration lacks the political will to hold perpetrators of such crimes to account, particularly Hamas members, and to respect fundamental human rights, including the rights to life and to be free from torture.

ABDUCTIONS, TORTURE AND UNLAWFUL KILLINGS OF ALLEGED COLLABORATORS

Media reports of summary killings in Gaza of alleged collaborators with Israel began circulating in the first few days of Operation Protective Edge.⁷ According to these reports, which Amnesty International has not been able to verify, Hamas forces captured an unspecified number of local people who were acting as informants for or otherwise assisting Israeli forces, who they “dealt with... in the field”. Hamas forces were reported to have shot one suspected “collaborator” on 13 July in front of witnesses in a street in Rafah; subsequent media reports said Hamas forces executed four captured “collaborators” on 13 July; and nine others were reportedly executed in Shuja’iya after Israeli troops began a ground offensive in Gaza on 24 July. By 1 August, *Asharq al-Awsat* newspaper reported, Hamas forces had executed at least 26 “collaborators” since the beginning of Operation

⁷ Palestinian news reported the capture of “collaborators” during the first few days of the conflict. *Palestine Times*, “The resistance arrests a number of collaborators”, 7 July 2014, <http://tinyurl.com/oavykjh> (in Arabic, accessed 20 May 2015); *Al Watan Voice*, “Security website: The resistance arrested collaborators in Gaza”, 9 July 2014, <http://www.alwatanvoice.com/arabic/news/2014/07/09/564309.html> (in Arabic, accessed 20 May 2015); *Middle East Monitor*, “Collaborators captured in Gaza”, 8 July 2014, <https://www.middleeastmonitor.com/news/middle-east/12626-collaborators-captured-in-gaza> (accessed 20 May 2015). The first reports said that Hamas forces captured collaborators while they were carrying out orders from the Israeli intelligence services but did not specify their number or the location where they were captured. The reports cited a security source who said that one of the collaborators confessed to monitoring farmland and reporting on activities there, while another said he helped locate houses of political and military leaders. Reports said that Hamas forces “dealt with the collaborators in the field” without specifying where they were held or if any of them were executed. *Ajnad News*, “The resistance arrested 4 collaborators and dealt with them in the field”, 12 July 2014, <http://www.ajnad-news.com/site/ajnad/details.aspx?itemid=18814> (in Arabic, last accessed 20 May 2015). On 17 July, news sources reported that Hamas forces executed four collaborators it had captured during the war. *Al Quds*, “From the war in Gaza: The death of Four Collaborators and the arrest of 13 others”, 17 July 2014, <http://www.alquds.com/news/article/view/id/514752> (in Arabic, last accessed 20 May 2015). On 24 July 2014, and following Israel’s ground invasion of Gaza, news sources reported that Hamas forces executed a further nine collaborators in Shuja’iya and shot others in the legs and put them under house arrest. According to the reports, the alleged collaborators were executed after it was “proved” they were involved in the killing of Palestinian fighters. *Al Quds*, “Gaza: ‘Collaborators’ send signals to jets and the resistance continues to execute them”, 24 July 2014, <http://www.alquds.com/news/article/view/id/515987> (in Arabic, last accessed 20 May 2015).

Protective Edge, with all of the victims executed in the field, without trial, following which at least nine of their bodies had been dumped in the streets for public view.⁸

The first extrajudicial executions by Hamas forces that Amnesty International has been able to confirm were carried out on 5 August when five men were shot dead by firing squad outside Katiba Prison. All five, whose ages ranged from 41 to 63, were removed from the prison, where they were held as inmates, immediately before their execution by or with the apparent acquiescence of prison officials. Hamas military courts had sentenced all five men, whose identities are known to Amnesty International, to death in separate trials in May, June, and August 2013 after convicting them on charges of "collaboration" with Israel, but in all cases they were still awaiting the outcome of appeals against their death sentences. After their executions, an ambulance took the five men's bodies to al-Shifa hospital where their families were able to retrieve them.

The same day, local media reported that, according to an unnamed Hamas security source, Palestinian "resistance" fighters had executed "in the battlefield" a "number of collaborators who helped the enemy identify new targets". The unnamed Hamas source reportedly said that the executions were carried out "after completing the revolutionary procedures during the battle" and that those executed as collaborators had been "caught red-handed informing about the resistance and homes of civilians in various areas of the Gaza Strip" and "were attempting to disturb the resistance forces and setting traps for the Zionist army". He also reportedly told the media:

*The resistance will continue to repel collaborators and cut their numbers in Gaza. The resistance will not grant mercy to anyone who provides information about the resistance and its men to the enemy. Field executions will be the number one solution for them.*⁹

Amnesty International has not been able to verify these reported executions or ascertain their number, and Hamas has revealed no details of them.

⁸ *Asharq al-Awsat*, "Hamas intensifies its war on 'collaborators'", 1 August 2014, <http://aawsat.com/home/article/150226> (in Arabic, last accessed 20 May 2015).

⁹ *Middle East Monitor*, "Gaza executes collaborators", 5 August 2014, <https://www.middleeastmonitor.com/news/middle-east/13239-gaza-executes-collaborators> (last accessed 20 May 2015); Ma'an, "The resistance has executed a number of collaborators during the war", 6 August 2014, <http://www.maannews.net/arb/ViewDetails.aspx?ID=718527> (in Arabic, last accessed 20 May 2015); *al-Watan Voice*, "Field executions: The resistance executes a number of collaborators in Gaza", 5 August 2014, <http://www.alwatanvoice.com/arabic/news/2014/08/05/574796.html> (in Arabic, last accessed 20 May 2015); Naba News Agency, "Field executions: The resistance executes a number of collaborators in Gaza", 6 August 2014, <http://www.naba.ps/arabic/?Action=Details&ID=60589> (in Arabic, last accessed 20 May 2015); *Raia al Yom*, "The resistance in Gaza executed a number of collaborators with Israel", August 5 2014, <http://www.raiayoum.com/?p=132001> (in Arabic, last accessed 20 May 2015); Al Arabiya, "Gaza: Hamas executed 'collaborators' with Israel during battles", 6 August 2014, <http://bit.ly/1SOzTUt> (in Arabic, last accessed 20 May 2015).

AYMAN TAHA

On 7 August 2014 the Palestinian *al-Quds* newspaper reported that the body of **Ayman Taha**, allegedly detained by the al-Qassam Brigades since 23 January 2014, was delivered to al-Shifa hospital. According to the report, Ayman Taha was killed on 4 August, three days earlier, when his body was brought to al-Shifa hospital and left at its entrance, only to be picked up by armed men one hour later. The report said the body showed bullet wounds to the head and chest and that Hamas prevented the news being published at the time and only allowed disclosure on 7 August when the body was returned to the hospital again.

Ayman Taha, whose father was one of the founders of Hamas, had acted as its representative to Egypt's intelligence authorities prior to his disappearance on 23 January 2014, allegedly detained by the al-Qassam Brigades. On 22 February, Hamas said it was holding him on charges of misconduct, corruption and profiteering. Amnesty International is not aware of any formal charges brought against Ayman Taha.

On 7 August, Hamas said he had died from injuries he sustained when an Israeli air strike targeted a Gaza City apartment in which he and others were present.

While such reports of unlawful killings during the first days of the conflict remain unverified, what is certain is that Hamas forces carried out at least 17 summary, extrajudicial executions of alleged collaborators on 22 August 2014, the day after Israeli air strikes killed three Hamas military commanders – Mohamed Abo Shamaleh, Raed al-Attar, and Mohamed Barhoum. In Rafah around 10.30am on 22 August, armed men acting on behalf of the Gazan Ministry of Interior removed 11 inmates from Katiba Prison with the apparent acquiescence of the prison authorities, and executed them by firing squad in the grounds of al-Jawazat police station, close to al-Azhar University in Gaza City, which had previously been damaged by Israeli bombing and abandoned.¹⁰ Eight of those shot – all men – had been imprisoned as alleged collaborators and charged with “collaboration” under the PLO Revolutionary Penal Code of 1979 but were executed before their cases had completed the judicial process. Eight had ongoing military trials, two were sentenced to prison pending appeals, and one man had been sentenced to death also pending appeal.

Those executed included **Atta Najjar**, 45, a former police officer under the PA. He was serving a 15-year prison term imposed by a Hamas court after he was arrested on 30 August 2009 and subsequently convicted of “collaborating” with Israel. He had been charged under the PLO Revolutionary Penal Code of 1979 with “communicating with hostile sides”.¹¹ He reportedly suffered from a mental disability and other health problems, and was subjected to sleep deprivation as well as other forms of torture or other ill-treatment while held at the main Internal Security detention facility in Gaza City.

¹⁰ *Felesteen*, “11 collaborators with the occupation executed in Gaza”, 22 August 2014, <http://bit.ly/1desBge> (in Arabic, last accessed 20 May 2015).

¹¹ This is a charge under Article 131 of the PLO Revolutionary Penal Code of 1979: http://www.dft.gov.ps/index.php?option=com_dataentry&pid=12&leg_id=%2094 (in Arabic).

Atta's brother told Amnesty International:

We were surprised when they called to say come and collect his body from the Katiba Square on the Friday. It was a friend who called us, nobody official informed us of his death, nor anyone from the prison. He said, "Your brother has been killed and he is thrown in the Katiba Square." He was killed at about 8am or 9am and moved to al-Shifa hospital mortuary by an ambulance an hour later. I went to the mortuary and found they had cut off the electricity to the fridge. This was an act of oppression and aggression. Why do you want to torment him in his death? It is a sign that this was the act of a gang rather than an official body.

I found the body and on it a paper written with his name – form number one – field execution – Jabalia resident – and the identity card number.

There were marks of torture and bullet wounds on his body. His arms and legs were broken. And his body was as if you'd put it in a bag and smashed it. His bones were broken. His body was riddled with about 30 bullets. He had slaughter marks around his neck, marks of knives. And from behind the head – there was no brain. Empty.

His arms were broken. It was difficult for us to carry him. We needed six people to carry him. He was heavy, like when you put meat in a bag; no bones. His bones were smashed. They broke him in the prison.

They killed someone who was not a danger to them. He'd almost finished his sentence. He'd worn himself out for three years going to courts, and being tortured.

Adli Waheb Arif al-Wadiya, 38, was serving a sentence of life imprisonment imposed on 6 February 2014 by a Hamas military court that convicted him of "seeking and collaborating with [the] enemy" under Articles 133 and 141 of the 1979 PLO Revolutionary Penal Code.

During his trial, according to military court records reviewed by Amnesty International, Adli al-Wadiya alleged that Internal Security officers had tortured or otherwise ill-treated him in pre-trial detention to make him "confess" to the accusations against him. The court failed to investigate his allegations and accepted his torture-tainted "confession" as evidence of his guilt. His father, Waheb Arif Hamad al-Wadiya, also told Amnesty International that Internal Security officers had tortured Adli al-Wadiya in pre-trial detention. Following his execution, his family went to the morgue at al-Shifa hospital to collect his body; they told Amnesty International that they found it riddled with bullet holes.

Ibrahim Dabour, 28, an insurance company employee and father of two children, was detained by Internal Security officers on 4 November 2010 near the Abu Sharkh roundabout in Jabalia, and they then searched his house. Ibrahim Dabour then disappeared for seven months before members of his family were allowed to visit him at the Internal Security force's main detention facility in Gaza City. He told them that he had been tortured and had required treatment at al-Shifa hospital during his detention. He was moved to Katiba Prison in June

2012 and was still standing trial before a military court on a charge of “communicating with hostile sides” at the time of his execution.¹²

Ibrahim Dabour’s brother told Amnesty International:

We were told by people around us at 1pm. There was no official notification. He was executed at 9.30am on Friday. My brother received a text message at 10.31pm that night saying, “The judgement against Ibrahim al-Dabour has been carried out according to the Shari’a as per the ruling of the Revolutionary Court. Our condolences are your solace and your sorrow is our sorrow. Go to the al-Shifa hospital for his body. Signed, Palestinian Resistance”.

By then we had already taken Ibrahim’s body and buried him. Later, the lawyer and other reliable sources at the prison told us that on that day, at 9.30am 11 men were taken from the prison and executed at 10.30am.

Ibrahim’s wife had high hopes for his release. She had arranged many things for him at home based on that hope. She thought he was delayed because of the war, and once it was over, he would come home. Lawlessness prevails in Gaza.

During the four years that Ibrahim was in prison, no decisions were taken against him. Even if he had been sentenced to death, there would have been an appeals process and other alternatives. What they have done is nothing to do with justice, it’s just criminal. These are the actions of militias. I question their patriotism.

The masked gunmen just shot them and left, hoping that people would stone them. It was horrible, the way these matters are dealt with, it’s barbaric to execute people in public, and they have wives and children. The military courts are just a sham, a game. The 11 men were executed one day after three leaders were targeted in Rafah. Why were the 11 not executed at the beginning of the war? The only explanation is that it was just revenge and conflict between the media, security, and military at the expense of innocent people.

All the Gaza residents thought that the executed men were arrested during the field battles, so they were happy. When they found out that they had been sitting in prison all along, some for four years, the attitude on the street changed.

F.A., a 23-year-old resident of Jabalia, was awaiting the outcome of an appeal to the Military High Court at the time of his execution. Following his arrest by Internal Security officers in January 2011, the Central Military Court in Gaza City sentenced him to death on 24 March 2013 after convicting him of “collaboration with an enemy entity”. According to his lawyer, F.A. wept and had bruising on his face when he stood trial and told the court that he had been tortured in detention by officers who hung him by his wrists and ankles and beat him;

¹² This is a charge under Article 131 of the PLO Revolutionary Penal Code of 1979:
http://www.dft.gov.ps/index.php?option=com_dataentry&pid=12&leg_id=%2094 (in Arabic).

however, the court does not appear to have ordered an investigation into his torture allegations.¹³

Abd as-Salam Jillo, 30, a construction company employee and father of two children, was still standing trial on a charge of “communicating with hostile sides” at the time of his execution.¹⁴ Internal Security officers arrested him on 1 April 2013 near his home in Jabalia and took him to their main detention facility in Gaza City. There, according to his family, officers tortured or otherwise ill-treated him, including by beating him, pouring cold water on him in winter and depriving him of sleep. He was moved to Katiba Prison in June 2013 and last seen alive there by his family on 24 June 2014. According to the death certificate issued to his family following his execution, he died from bullet wounds to his neck and chest.



The body of Abd as-Salam Jillo in the morgue, with what appear to be exit wounds on his chest. © Private

A.J., 34, a former member of the PA's Preventative Security Force, was also still on trial at the time of his execution on 22 August 2014. Internal Security officers arrested him at his home in al-Thwam, Beit Lahiya, on 23 October 2013 and took him to their main detention facility in Gaza City. There they held him incommunicado for 10 weeks and subjected him to *shabah* (being forced into prolonged stress positions) and other forms of torture, according to his family. Internal Security officers also searched the family's home several times. Hamas authorities charged A.J. with “communicating with hostile sides” but he had not been convicted.¹⁵ A.J.'s father said he visited him in Katiba Prison on 21 August 2014, the day before his execution. A.J.'s brother, who collected his body from al-Shifa hospital's morgue, told Amnesty International:

When I tried to open the bag to inspect his body, I was not allowed to and told to take it away for burial. When we got home, I removed the bag in preparation for his bathing and I found the following: the chest area was all torn apart by several bullet holes – it looked like bullets had exploded, with some of the skin coming out of his body. I started looking at other parts of his body

¹³ Amnesty International had previously identified F.A. as being at risk of execution. See Urgent Actions: 1053/12 (Index: MDE 21/002/2013); 214/13 (Index: MDE 21/003/2013); and 214/13 (Further Information) (Index: MDE 21/007/2013).

¹⁴ This is a charge under Article 131 of the PLO Revolutionary Penal Code of 1979: http://www.dft.gov.ps/index.php?option=com_dataentry&pid=12&leg_id=%2094 (in Arabic).

¹⁵ This is a charge under Article 131 of the PLO Revolutionary Penal Code of 1979: http://www.dft.gov.ps/index.php?option=com_dataentry&pid=12&leg_id=%2094 (in Arabic).

and found under his arm, towards his waist on the left side of his body from the back, the location of where the bullets entered the body. When I counted them, I managed to count to 32 bullets and could not bear to see or count any more, I was overwhelmed.

On the morning of 22 August, Hamas said in a statement that it had established “revolutionary courts” and sentenced an undisclosed number of “collaborators” to death. Masked men read out the statement at the al-Omari mosque during Friday prayers, following which other masked armed men publicly executed six men outside the mosque in front of hundreds of spectators.¹⁶ According to witnesses interviewed by Amnesty International, as worshippers were leaving the mosque at around 1.30pm, between 15 and 20 armed men dressed in black and wearing masks suddenly appeared amid the crowd dragging six men whose heads were covered with hoods. The men were made to kneel near a wall close to the mosque facing the crowd. One of the armed men then used a pistol to shoot one bullet into the head of each man, before spraying their corpses with fire from an AK-47 automatic rifle that he reloaded several times. The armed men then hung papers signed “Palestinian Resistance” on the wall above where each of the men were shot, which identified each of the victims only by their initials and read:

The traitor [initials of each of the victims provided]; most important clauses for convictions: provided information to the enemy about the locations of guards, tunnels, explosive devices, and homes of fighters, rockets which the occupation bombed and which resulted in many martyrs from resistance fighters. Based on this the revolutionary justice has been implemented.

The armed men left the six men’s bodies on the ground where they were shot. An ambulance arrived shortly after and some of the armed men helped medics load the bodies into the

¹⁶ A number of pieces of evidence circulated in the aftermath of this event. A video of the reading of the sentence in the mosque was posted on YouTube: Medo Nassar, “The revolutionary court of the Palestinian Resistance sentences a number of collaborators to death”, 22 August 2014, <https://www.youtube.com/watch?v=SVHROjQ1-WM> (in Arabic, last accessed 20 May 2015). The text of the statement was published on an online forum: “Statement of the revolutionary court’s imposition of the death penalty on a number of collaborators”, 23 August 2014; <https://www.paldf.net/forum/showthread.php?t=1154290> (in Arabic, last accessed 20 May 2015). A picture of the statement also circulated: Slab News, “The revolutionary court of the resistance issues an execution order against collaborators in Gaza”, 22 August 2014, <http://slabnews.com/article/107180/> (in Arabic, last accessed 20 May 2015). A video of the aftermath of the executions was posted on YouTube: Muslim Palestine, “Witness the execution of collaborators in Gaza”, 23 August 2014 <https://www.youtube.com/watch?v=ZKB3MM8TVrY> (in Arabic, last accessed 20 May 2015). A set of pictures also appeared: Al Safer News, “New pictures of the execution of 7 collaborators in Gaza”, 23 August 2014, <http://bit.ly/1GjhVbk> (in Arabic, last accessed 20 May 2015); and the Palestinian Information Center, “Scenes of the execution of collaborators with the occupation in Gaza”, 22 August 2014 <https://www.palinfo.com/site/pic/newsdetails.aspx?itemid=160961> (in Arabic, last accessed 20 May 2015). See also *al Ankabout*, “‘Strangling Necks’ extends to 18 ‘collaborators’ in Gaza”, 23 August 2014, http://www.alankabout.com/arabic_international_news/middle_east_news/62875.html (in Arabic, last accessed 20 May 2015).

ambulance which then took the bodies to the morgue of al-Shifa hospital, from where their families collected them.

Amnesty International has not been able to verify the identities of these six victims of extrajudicial execution but they almost certainly included **Saleh Swelim**, 32, who Internal Security officers detained at his home at around 8pm on 11 August 2014. The officers took Saleh Swelim to their Jabalia detention facility, known as the al-Sisi centre, and then to the outpatients' clinic at al-Shifa hospital in Gaza City, which Hamas forces were using to detain and interrogate suspects. M.S., a younger brother of Saleh Swelim, told Amnesty International that Internal Security officers also detained him that day and that he saw Saleh Swelim both at the al-Sisi facility and at al-Shifa hospital, and that Internal Security officers tortured both of them. He said:



A photo of M.S. displaying what he told Amnesty International were the burns caused by acid poured on him during torture. © Amnesty International

At the end of Ramadan and during the war I was served with a house arrest order. But we live in Izbet Beit Hanoun, an area considered to be dangerous since it is a border town. So we left for my uncle's home in Gaza City.

While I was there Internal Security came to the house and knocked loudly at the door; a relative told them no one was home and the family was in Gaza City at their brother's home. I went downstairs to see what was happening and two men took me into a Mitsubishi car. They said they were from Internal Security and I was wanted for questioning.

I sat in the back seat between two of them. They put a blindfold on me and a pistol to my head and told me not to raise my head. I don't know where they took me; it seemed far away and they kept going around in circles with the car. They asked if I knew why I had been taken. When I said I did not, they said, "Now you will find out", and started beating me.

I was taken down steps to what seemed like a ground floor, where I was beaten for about half an hour while my hands were tied with rope. Someone else came and said I was to be brought upstairs, so I was taken to either the second or third floor, as we went up steps.

Upstairs, I was hung by the legs and handcuffed and beaten. Finally, someone said, "He does not want to confess, hang him up." They hung my legs from the ceiling

while I was handcuffed, then beaten with metal bars and pipes. I was accused of using and dealing the drug Tramal [a painkiller], and also of using and dealing in hashish and procuring women. I would not confess to any of the charges.

Later I was told they had no interest in those charges. They said, “We took you because of your brother in the West Bank intelligence service; we know you are in contact with him.”

I told them I was not in contact with my brother [E.S.]. During the torture sessions they kept insisting that I was relaying messages to intelligence services through Saleh and wanted me to admit what Saleh used to report back to me. I denied reporting anything to Saleh or him reporting anything back to me.

The beatings continued and they put gas pipes in my mouth then and poured acid on my hands. I could not bear the pain. From then on I agreed to everything they wanted me to confess to. I think they were recording me; they kept saying, “Say this and say that”.

Every now and then they would stop. They made me confess to communicating with Saleh, who would contact [E.S.] to find out the movements of Hamas and the location of the rockets. They wanted me to confess that I followed specific people for Saleh who would in turn report back to [E.S.]. They also had me confess that [E.S.] sent us money. I had to tell them all the places where I worked.

That night... I was put in a bus and taken to al-Sisi centre where they lifted the blindfold from my face; it had been on there all night. I was beaten when we arrived at the camp. I was told that my brother Saleh was there.

I was beaten all night... to make me confront my brother with the names of the men mentioned earlier. I refused, then I could not stand the beatings any more and I went in to face Saleh. I saw he was beaten and when I got to him he was being beaten with boots and leather straps.

We were both made to confess by being beaten. We remained in the al-Sisi camp until the following day then were transferred to the al-Shifa hospital. We were received respectfully there in the outpatients’ clinic. They did not beat us and treated us with respect, especially after they saw the burns on my body and the marks from the beatings. They applied ointment to my wounds and gave me medical treatment.

M.S. was released but it seems certain that Saleh Swelim was one of the six men summarily killed outside the al-Omari mosque on 22 August. His family identified him from photographs of the executions by the clothes he was wearing, and they collected his body from the morgue that day.

Three other families told Amnesty International that on 22 August they collected the corpses of relatives whom Hamas forces had detained on suspicion of “collaboration” with Israel. A man who disappeared after Hamas forces abducted him on 11 July 2014 from Rafah may

also have been among those executed; his family told Amnesty International that they had been issued with an official death certificate by the Hamas authorities stating that their relative died on 22 August 2014 as a result of multiple gunshot wounds to the chest, but that they had not received his body.

Sabir al-Zain, 56, a father of 11 children, was taken away by four armed men who raided his home in Jabalia at around 5.30am on 17 August 2014, his wife told Amnesty International,



adding that she recognized one of the men. She said the four men forced their way into the house, searched it and then took her husband away in a white Hyundai saloon car. She tried to find out his whereabouts for two days before she learned that Sabir al-Zain was detained by Internal Security officers at al-Shifa hospital. She then began receiving threatening phone calls from callers who did not identify themselves

The body of Sabir al-Zain in the morgue, with what appear to be multiple entry wounds on his chest. © Private

warning her and other family members not to seek access to her

husband. On 22 August, five days after he was taken away by armed men, Sabir al-Zain's family received a phone call telling them that his body was at the morgue of al-Shifa hospital and they could collect it from there. One of the dead man's sons told Amnesty International:

My father had been tortured beyond belief. It was horrible. His arms were both broken. They had burnt him on a stove. His body was broken. I inspected his body myself. I was the only one capable of seeing the sight of his body. I was the only one that went in and saw the body. There was a paper printed with all the names [of the dead], except for my father's name, which was handwritten with a dry ballpoint pen at the end like an afterthought.

Iyad Eid was detained outside his brother's shop in Jabalia on 20 August 2014 by two armed men who drove him away in a white Hyundai car, according to his brother. The brother told Amnesty International that when he went to ask for Iyad Eid at the Jabalia police station, which Internal Security officers were using to hold and interrogate suspects, he saw the same car there and the two men who had taken him, but they denied that Iyad Eid was held at Jabalia police station. On 22 August 2014, the family received information that Iyad Eid had

been executed and that they could retrieve his body from the morgue at al-Shifa hospital for burial. His brother described the appearance of Iyad Eid's body:

[The] shoulders were dark blue and his underarms were extremely loose. His two front teeth were broken while an old cut on his lip was reopened. He had marks on his cheek from pipes and it was all blue. His spine was covered with dark bruises plus it looked like he had been hit with a stick on the back of his head; it was swollen and looked like the bump had clogged blood. During the trip in the jeep to the funeral, I was holding his head; I turned it and felt and saw the bruise.

Ali Da'alsa, 32, an electrician with three children, was taken from al-Shati' refugee camp on 20 August 2014. His cousin, M.D., who was present, told Amnesty International that two of the men who took Ali Da'alsa away identified themselves as police officers. A third man, whom Ali Da'alsa and M.D. knew to be an Internal Security officer, was also present. The three men took both Ali Da'alsa and M.D. away in a black Hyundai car but after about 10 minutes, during which they assaulted him, the three let M.D. go, dropping him near al-Quds Open University. The next day, M.D. went to the part of al-Shifa hospital used by Internal Security to inquire about Ali Da'alsa. He told Amnesty International:

I went to al-Shifa hospital outpatients' clinic where the Internal Security had a room. I knocked on the door and nobody answered. I kept on knocking on the door until they [Internal Security] finally arrived.

They grabbed me and hit me and insulted me and treated me harshly, and increased their beatings of me. They put me in a room and left me until about 1am when they returned and asked me, "Do you want to leave?" I said, "No, I don't want to leave." So at about 2am they came and asked me what I wanted. I said, "I either stay here with my brother or I leave with my brother." They said, "Come, we'll show you your brother."

They showed me my brother from behind. I couldn't tell if he was alive or dead. There were about three other people sitting on the floor; they were detainees.

M.D. said that Internal Security officers then took him by car to the al-Mu'askir area and let him go. However, he returned to al-Shifa hospital the next day, when Internal Security officers told him that Ali Da'alsa had been executed after confessing to "collaboration" with Israel. When the family went to collect Ali Da'alsa's body from the hospital morgue, M.D. said he saw other bodies of execution victims there:

I went to the mortuary and they said he was there but they didn't tell me in which fridge. So I opened every one and found some agents [alleged collaborators] with large posters stuck on their shoulders about what they did. I found my brother in the last one. I found a small paper with only his name written on it: "Ali Da'alsa, Shati' [refugee camp]". No official stamp. I took the paper and put it in my pocket. And pulled out the drawer from the fridge and began to inspect it. I found in the right jaw a mark like that of pliers; at first I thought it was a bullet, so I put my fingers in and hit bone. Also on his forehead, from his right eye across his face was the mark of a Kalashnikov. His lips were extremely blue. You could see the marks of torture.

[illegible]

S.B., 32, was abducted from his family home in eastern Rafah on 11 July 2014. His family have not seen him since. S.B.'s mother,

who witnessed the abduction, told Amnesty International that S.B. was drinking juice on the doorstep at about 10.30pm when a number of men drove up in a white car and

forced S.B. to go with them.¹⁷ She said the family were too afraid to report S.B.'s abduction to the police. On 22 August, a man gave S.B.'s wife a death certificate for her husband, which Amnesty International has since reviewed. It states that S.B. died on 22 August from bullet wounds to his chest and that his corpse was handed over to his brother, M.B.; he, however, denies receiving it and the certificate gives an incorrect ID number for him.

Unofficial sources in Rafah told Amnesty International that they believe that S.B. was killed by members of the al-Qassam Brigades, including one of S.B.'s relatives, and buried in the vicinity of Khan Yunis. The Hamas authorities in Gaza have taken no steps to investigate S.B.'s abduction and possible murder or hold those responsible to account, according to the family.

Hamas dubbed the 22 August killings “Operation Strangling Necks” and said it targeted “collaborators” with Israel who had provided information that had assisted Israeli forces to launch attacks on Palestinian homes, schools, and other places that had caused the loss of

¹⁷ Miriam Hamdan Hassan al-Bahabsa, interviewed on 19 November 2014 at her house in al-Salam neighbourhood, Rafah.

many civilian lives and livelihoods.¹⁸ Hamas-affiliated media sources, citing unnamed Hamas security sources, claimed that the Palestinian "resistance" had established "revolutionary procedures" to deal with "collaborators" in the field, but did not describe these in any detail or explain what safeguards, if any, they included to prevent the execution of anyone wrongly accused. Hamas-affiliated media simply claimed that all those executed as "collaborators" – whose number they did not disclose – had been caught in the act of assisting Israel's military operations by: monitoring and reporting on the movements of Palestinian commanders and fighters, enabling them to be targeted and killed by Israel; locating the sites of Palestinian rocket launchers and tunnels, and providing that information to Israel; providing Israel with details of houses used by Palestinian fighters that Israeli forces then bombed; and spreading rumours on behalf of Israel. In addition, Hamas-affiliated media alleged that executed "collaborators" had been found installing spy equipment, photographing vehicles, and providing information and relevant GPS coordinates to Israeli forces, and that some of them had received money and distributed it to other collaborators using "dead-drop" locations.

Hamas political and military leaders sought to justify the extrajudicial executions carried out by Hamas forces during Operation Protective Edge on the grounds that they allegedly targeted "collaborators"; although some criticized the public nature of the executions. On 23 August, Musa Abu Marzouq, the deputy chief of Hamas's Political Bureau, claimed in an interview that Palestinians who had collaborated with Israel were the principal reason why Israeli forces had bombed UN schools, mosques, and university facilities and killed so many civilians during Operation Protective Edge. He also claimed that most executions were of alleged collaborators who had been detained before Operation Protective Edge began, so apparently contradicting the assertions in Hamas-affiliated media that those executed had been "collaborators" caught in the act of assisting Israel during Operation Protective Edge. He claimed too that most of the executed collaborators had already been sentenced to death, despite the evidence to the contrary. He also claimed that all of those executed had been tried in hearings that had been recorded – although none of these recordings have been made publicly available by Hamas authorities to date – and that all of those executed were responsible for murder. He further claimed that the executions had been carried out to satisfy public demands that collaborators should be killed.¹⁹

On 28 August, Palestinian President Mahmoud Abbas publicly criticized the executions by Hamas in Gaza, describing them as a "crime" that Hamas had carried out alone and without consulting others.²⁰

¹⁸ *al-Majd*, "The resistance announces the 'Strangling Necks' campaign for dealing with suspects and collaborators", http://www.almajd.ps/?ac=showdetail&did=5898&sm_aui=i5VF46VnSQK0r5V7 (in Arabic, last accessed 20 May 2015).

¹⁹ Dream TV, "Full interview with Abu Marzouq", minute 41, 1 October 2014, <https://www.youtube.com/watch?v=JRL7KxY6TBC> (in Arabic, last accessed 20 May 2015). Al Jazeera, "Hamas open the door to any course for the meeting of Palestinian demands", 23 August 2014, <http://bit.ly/1FtFW0n> (in Arabic, last accessed 20 May 2015).

²⁰ BBC Arabic, "Abbas: It was possible to avoid the victims of Gaza", 30 August 2014, http://www.bbc.co.uk/arabic/middleeast/2014/08/140830_palestine_abbas_criticises_hamas (in Arabic, last accessed 20 May 2015); *Palestine Today*, "Abbas: Gaza's shadow government threatens the

Palestinian human rights groups have also criticized Hamas's forces' extrajudicial executions of alleged collaborators as a flagrant violation of the right to fair trial, insisting that while collaborators should be held accountable this should be achieved in accordance with international law and human rights standards. They have also expressed concern over allegations that Hamas forces used torture and other ill-treatment to extract "confessions" from detainees who were subsequently convicted of "collaboration" with Israel, further undermining their rights to fair trial and their right to be protected against torture or other ill-treatment.²¹

Palestinian human rights groups have also accused Israel, as the occupying power, of responsibility for putting the lives of Palestinians at risk by recruiting them, mostly through blackmail, as informers.

continuation of reconciliation and unity", 28 August 2014, <http://bit.ly/1HcpdK7> (in Arabic, last accessed 20 May 2015).

²¹ The Independent Commission for Human Rights, "ICHR calls for an immediate halt of extra-judicial executions in the Gaza strip", 22 August 2014, <http://www.ichr.ps/en/2/4/1254/ICHR-Calls-for-an-Immediate-Halt-of-Extra-Judicial-Executions-in-the-Gaza-Strip-ICHR-Calls-for-an-Immediate-Halt-of-Extra-Judicial-Executions-in-the-Gaza-Strip.htm#.VHYhLYusVps> (last accessed 20 May 2015); Palestinian Centre for Human Rights, "PCHR calls for stopping extra-judicial executions in Gaza", 22 August 2014, http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=10604:pchr-calls-for-stopping-extra-judicial-executions-in-gaza&catid=36:pchrpressreleases&Itemid=194 (last accessed 20 May 2015).

OTHER KILLINGS DURING THE PERIOD

During the period of Operation Protective Edge, at least one man and one woman were killed in circumstances that remain unclear. Hamas authorities must investigate these killings.

Al-Zein Mohammed Abu Jebah, 40, was shot by a member of a Hamas security force in Gaza City on 22 July 2014 in what appears to have been a revenge attack, part of a feud between the victim and a member of Hamas. Al-Zein Mohammed Abu Jebah was visiting his home, which he and his family had fled five days earlier due to heavy Israeli bombing. On his way back to his place of refuge in al-Zaytoun he reportedly entered into an argument with a member of a Hamas security force manning a checkpoint, who then shot him with a hand gun. He was taken to hospital where he died soon after. According to the hospital medical report, of which Amnesty International has obtained a copy, al-Zein Mohammed Abu Jebah died from severe bleeding as a result of a gunshot wound to the lower right abdomen. Alayan Mohammed Abu Jebah, his brother, told Amnesty International that upon submitting a complaint to the General Prosecutor in Gaza the police detained a suspect. Amnesty International is not aware of any subsequent prosecution or conviction.

According to sources in Gaza, members of a Palestinian armed group summarily executed **Karima Hammad**, but no further details are available. Karima Hammad is a relative of the Hamas Minister of Interior Fathi Hammad. Her Husband, Iyad Madhoun, was summarily killed in December 2013. She was previously held by the PA’s Preventative Security for her involvement in the assassination of Hamas military leader Yahya Ayyash in Gaza in 1996 and subjected to torture.²²

²² Amnesty International, *Palestinian Authority: Defying the rule of law: Political detainees held without charge or trial* (Index: MDE/21/003/1999), <https://www.amnesty.org/en/documents/MDE21/003/1999/en/> (accessed 19 May 2015).

ABDUCTIONS, TORTURE AND ASSAULTS OF MEMBERS OF FATAH AND PA SECURITY FORCES

During the conflict with Israel, Hamas forces also committed serious abuses against Fatah members and former members of the PA security forces in Gaza, including abductions, torture, shootings, and other assaults. In all the cases that Amnesty International has documented, those targeted were restricted under house arrest orders by the Gaza Ministry of Interior or forces such as the al-Qassam Brigades at the start of the conflict, and then abducted or attacked for allegedly defying those orders.



A house arrest order issued by the al-Qassam Brigades on 12 July 2014. It warns that violation of the order will result in "field punishment". © Private

Scores of others, however, are also reported to have been abducted or attacked by Hamas forces in Gaza during the conflict but fear that they could face reprisals if they reveal what occurred to them or members of their families.

On 27 July 2014, the Fatah Movement Higher Leadership Commission issued a statement condemning Hamas's house arrest of Fatah members in Gaza and on 4 August issued a further statement accusing Hamas of responsibility for attacks in which Fatah members were shot in their legs.²³ News sources affiliated to

Fatah published the names of some 300 people in Gaza who they said had been shot in the legs, beaten so that their limbs were broken, abducted and tortured, or placed under house arrest by Hamas forces in Gaza because they were Fatah supporters.²⁴ Fatah officials said

²³ Wafa, "Fatah rejects Hamas' imposition of house arrest on its members", 27 July 2014, <http://www.wafa.ps/arabic/index.php?action=detail&id=180353> (in Arabic, last accessed 20 May 2015); Quds Press Net, "Hamas imposes house arrest on many members of the Fatah movement and the occupation targets them", 7 August 2014, <http://bit.ly/1QXaOZe> (in Arabic, last accessed 20 May 2015).

²⁴ Karama Press, "Qassam imposes house arrest on some Fatah members in the Gaza Strip", 16 July 2014, <http://www.karamapress.com/arabic/?Action=ShowNews&ID=83959> (in Arabic, last accessed 20 May 2015).

that many of them had been moved to hospitals outside Gaza to receive treatment. Amnesty International was not able to verify any of these reports. Hamas denies targeting or attacking members of Fatah.²⁵

A.H., 43, a member of Fatah, activist and former PA senior officer, told Amnesty International that members of Hamas’s Internal Security force detained him as he left a mosque in the eastern area of Gaza City on 17 August 2014 and took him to the outpatients’ clinic at al-Shifa hospital. There, he said, they tortured him for about two hours by tying his hands behind his back, blindfolding him and beating him, including with a hammer and plastic pipes, causing him to lose consciousness several times, and verbally abused him, before asking him about his links to the PA’s security forces:

It was not really questioning, just a torture session. After two hours of questioning I was asked if I had anything to say. When I said I did not, they said they would take me home. They led me away while I was still blindfolded. It sounded like they were a large number of people. I could hear their footsteps. We walked for about five minutes then I was told to stop. Suddenly I felt my whole body being hit, this time with sharp objects, which led to fractures to both my hands. They also used the sharp objects on my legs, I don’t know what they were as I was still blindfolded. Those objects caused holes of about one centimetre in both my feet. The beatings continued for about 10 minutes, then someone threw my mobile phone next to me and said, “Here is your mobile and here is a message to relay to the intelligence service in Ramallah.”

Internal Security officers left A.F. on a street, still blindfolded. Passers-by called an ambulance which then took him back to al-Shifa hospital, to the emergency room. Police came to see him at the hospital but when he told them that Internal Security officers had inflicted his injuries they did not register his complaint, telling him that he should lodge it at al-Abbas police station. Several weeks later Internal Security officers came to see him and acknowledged the ill-treatment during his questioning but denied that they were responsible for assaulting him after his interrogation.

H.J., a former officer in the PA’s Preventative Security Force and father of four children, told Amnesty International that Hamas’s Internal Security force imposed a house arrest order on him on 28 July, but on 8 August he left his house briefly during a ceasefire to get food. The next day Internal Security officers came to his house and ordered him to go to the Internal Security detention centre at Deir al-Balah. There, according to H.J., Internal Security officers blindfolded him, beat him, and threatened to burn him. The officers told him his beating was punishment for breaking his house arrest order the previous day but they also urged him to “confess” to acting as an Israeli informant, and subjected him to further threats and torture when he denied this. He said:

While I was in the prison cell they opened a gas cylinder on me; a type of intimidation. They opened it to frighten me into confessing. Every time my arms

²⁵ Al Jazeera, “Hamas denies accusations it targeted Fatah members in Gaza”, 19 August 2014, <http://bit.ly/1Kjx5Qa> (in Arabic, last accessed 20 May 2015).

would drop they would hit them and my stomach. They'd say, "Raise your legs", and, every time my legs would drop, they would strike me in the back and I would find I had fallen on the floor tiles.

Internal Security released him near midnight on 9 August. He told Amnesty International that he had been previously targeted by Hamas forces in Gaza on account of his role with the PA's Preventative Security Force; he said he had been kept under house arrest during Operation Cast Lead, the 2008-2009 Israeli military offensive in Gaza, detained in 2011, and three times shot and injured.



A picture of N.S.'s leg show the marks from his attack by members of the al-Qassam Brigades. © Private

N.S., a former colonel in the Palestinian Presidential Guards, told Amnesty International that armed men who said they belonged to the al-Qassam Brigades attacked him on 17 July. He had objected the previous day to remarks made by the imam at the mosque where he was praying that he considered derogatory to Fatah and Palestinian President Mahmoud Abbas. As he left the mosque that day, he said, bystanders prevented a group of Internal Security and police officers arresting him and later he discussed the issue by phone with a local Hamas leader. However, as he left the same mosque following afternoon prayers on 17 July, a group of about 12 masked carrying firearms, "electric sticks" and other weapons assaulted him and told him to go home and stay there as they had put him under house arrest.

F.A., 40, a former senior officer in the PA's General Intelligence force, told Amnesty International that masked men who said they were from the al-Qassam Brigades broke into his home in Sheikh Radwan and seriously assaulted him. He said:

I was dragged onto the floor below our flat and placed in a corner near the lift where they started beating me. The beatings covered my whole body, not a single spot escaped the beatings with the back of the rifle or sticks; their imprints were everywhere. I went to al-Quds hospital where I was treated. I did not go to al-Shifa hospital because it is said that any member of Fatah or the PA going there would end up with worse injuries.

After treatment at the hospital, F.A. said he went into hiding for a time before eventually returning home. He tried to complain but no-one was willing to investigate or hold those responsible to account. He said:

I followed up with different Hamas officials and members of the security services. They all denied knowledge of or responsibility for what happened to me; they all said they were individual actions and had nothing to do with them. If that is the case, then it's very sad.

Prior to his assault during Operation Protective Edge, Farouq al-Adgham received a two year prison sentence in 2013 from a Hamas court after it convicted him of communicating with the PA's intelligence service in Ramallah; however, he was released on 21 April 2014 under a pardon issued by Hamas Prime Minister Ismail Haniyeh as a gesture of goodwill marking Palestinian national reconciliation efforts between Fatah and Hamas.

A.R., a former PA police officer, was abducted by around 15 masked and armed men riding on motorcycles near his house in Rimal al-Shamali at 11pm on 8 July 2014. He was taken to an unknown location where he was tortured. He told Amnesty International:



A picture showing A.R. after he was released from prison with the marks of torture plainly visible on his body. © Private

When we stopped, I was taken into a place where they told me to bend as it was an entrance to a tunnel. Once inside, I was made to stand next to a wall then told to kneel. I was then kicked with my face hitting the ground and I felt as though I had broken my jaw. They kept kicking me with their boots, and some of them pulling my hands which were already behind my back even further in an effort to break them. I told them I had a platinum bar in my right leg, so they concentrated their beatings there. Throughout the beatings, they kept saying, "We will break you, we will humiliate you [Fatah people]."

I was being kicked under the kneecaps with the back part of the Kalashnikovs. They tied my legs to the rifle and raised my legs and with their boots hit the bottom of my feet.

A finger on my right hand goes all numb now and I am losing feeling in it – that is something you cannot capture in a photograph. The damage to my finger was a result of my blood circulation being restricted by the plastic ties on my wrists.

The beatings continued for five hours – and the questions on the different prayer rituals continued. I told them I had been praying for 15 years, but they accused me and others of pretending to pray because we were being beaten. They only left me

once for five minutes to eat before starting their Ramadan fast. I was left without any food.

They put me on the motorcycle and a while later they let me off and untied my hands and told me not to look back, I continued to walk. I got home at 4.20am.

They kept my ID and it was returned to me later through my cousin. They had also instructed me to stay at home and not go out, and to tell anyone who asked about my injuries that I had had a problem with someone. They kept following me and coming to my place of work, especially during the five days of the ceasefire, and asking about me. They said that as members of Internal Security they were aware of everything that was happening.



Mohammed Abu Dayyeh is shown after his release from the al-Shifa hospital, where he received treatment after the attack on him by 20 masked men from the al-Qassam Brigades. © Private

Mohammed Fawzi Fadel Abu Dayyeh, 35, a Fatah activist and former PA police officer with three children, told Amnesty International that he too had been released under the April 2014 pardon granted by Hamas Prime Minister Haniyeh after he had served 10 months of a prison sentence imposed by a Hamas court that convicted him of communicating with the PA's intelligence services in Ramallah.

However, he said that a group of more than 20 masked men who identified themselves as belonging to the al-Qassam Brigades took him from his home in Gaza City shortly before

midnight on 18 July 2014. They took him to an alley nearby where they beat him with sticks and sharp implements, ceasing only when members of his family intervened. His family then took him to al-Shifa hospital, where he was found to have sustained fractures to his left arm and left leg. He told Amnesty International that the men who assaulted him told him that it was intended as a message to the PA's leadership in Ramallah.

APPLICABLE LAW

The legal situation in Gaza is complex due to the applicability of several distinct and overlapping bodies of international law, which provide the framework for examining the duties and obligations of various authorities with regard to the abuses described in this report. Those parties include Israel as the overall occupying power, the Hamas de facto administration in Gaza, the Palestinian authorities based in Ramallah in the West Bank, and the unity administration agreed between all Palestinian factions to which president Abbas appointed ministers in June 2014. The different legal frameworks include international humanitarian law – the “laws of war” set out in the Geneva Conventions governing the conduct of armed conflicts, including the law of occupation; international human rights law, which imposes binding obligations on states during both peace and armed conflict; and international criminal law. The focus here is on international law as it relates to the duties and obligations of the Hamas authorities who were responsible de facto for the administration of Gaza during the period in which the crimes and abuses reported here were committed, in many cases by officials acting in the name of or on behalf of Hamas.

In legal terms, Gaza has remained under Israeli occupation since June 1967 and Israel's actions as the occupying power are regulated by the law of occupation, notably the Fourth Geneva Convention.²⁶ Other provisions of international humanitarian law set out standards of humane conduct that are applicable to all parties to an armed conflict, including armed groups; in the case of Gaza, such parties include the Hamas de facto administration and Palestinian armed groups that engage in armed conflict with Israel.

INTERNATIONAL HUMANITARIAN LAW

The rules of international humanitarian law most relevant to this report are codified in Article 3 common to the four Geneva Conventions of 1949, which applies to all parties – whether state or non-state – and all armed conflicts. It provides that:

Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed “hors de combat” by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

²⁶ The nature of that occupation of the West Bank and Gaza has shifted over the years, but Israel has maintained overall effective control – the sine qua non of belligerent occupation. Israel remains the occupying power in Gaza and continues to be bound by the law of occupation, particularly as regards the powers it continues to exercise over the population of Gaza. This does not negate the responsibilities of the Hamas authorities, who have had de facto administration over internal affairs in the Gaza Strip since June 2007, or those of the Palestinian authorities, which have jurisdiction over internal affairs in parts of the Occupied Palestinian Territories under the Oslo Accords.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

Serious violations of Common Article 3 are war crimes in the Rome Statute of the International Criminal Court and under customary international humanitarian law.²⁷

INTERNATIONAL HUMAN RIGHTS LAW

The protections set out in international human rights law under the Universal Declaration of Human Rights and a series of international treaties also clearly apply in Gaza. Palestine was admitted into the UN General Assembly as a non-member observer state on 29 November 2012. In April 2014 Palestinian President Mahmoud Abbas signed letters of accession by Palestine – including Gaza – to 20 international treaties including: the four Geneva Conventions of 1949 and their first Additional Protocol; the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

Article 6(1) of the ICCPR states, “Every human being has the inherent right to life. No one shall be arbitrarily deprived of his life.” This right is a peremptory norm of international law and can never be suspended or otherwise derogated from, be it in times of peace or in times of war.²⁸ The question of whether a killing committed as part of an armed conflict constitutes an arbitrary deprivation of life will be determined by the relevant rules of international humanitarian law. Deliberately killing a civilian taking no direct part in hostilities or anyone *hors de combat* is an arbitrary deprivation of life.

Unlawful and deliberate killings carried out by order of government officials or with their complicity or acquiescence amount to extrajudicial executions; they are prohibited at all

²⁷ Rome Statute of the International Criminal Court, Art 8(2)(c); International Committee of the Red Cross, Customary International Humanitarian Law, Vol. I: Rules, Rule 156, p. 590.

²⁸ See Article 4(2) of the ICCPR and, inter alia, Human Rights Committee, General Comment No. 29 on States of Emergency, CCPR/C/21/Rev.1/Add.11, paras 7 and 11; see also Human Rights Committee, General Comment No. 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, para. 11.

times and constitute crimes under international law.²⁹ States have a duty to ensure prompt, thorough, independent, and impartial investigations into suspected cases of such killings. International standards specify the following:

*In cases in which the established investigative procedures are inadequate because of lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons, Governments shall pursue investigations through an independent commission of inquiry or similar procedure.*³⁰

The absolute prohibition of torture and other ill-treatment is a peremptory norm of customary international law. It is codified in the ICCPR, the CAT and the Universal Declaration of Human Rights.³¹ The CAT requires that all persons responsible for acts of torture, attempted torture, or complicity or participation in torture be brought to justice for their crimes in fair trial proceedings while the ICCPR requires the same regarding acts of similar cruel, inhuman, or degrading treatment.³² Both treaties require a prompt and impartial investigation of all allegations of torture or other ill-treatment.³³ Both also stress that neither superior orders nor exceptional circumstances or any other public emergency can be invoked as a justification for torture.³⁴ Finally, the CAT requires state parties to ensure that victims of torture obtain redress and have an enforceable right to compensation. The ICCPR also requires the provision of effective remedies for those who have suffered violations, including ill-treatment.³⁵

Arbitrary arrest and detention is prohibited under Article 9(1) of the ICCPR. Article 9 of the ICCPR also provides that anyone deprived of their liberty shall be promptly informed of the reasons for their arrest and shall have the right to challenge before a court the lawfulness of their detention. The prohibition of arbitrary deprivation of liberty is also a norm of customary international law.

²⁹ See UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principle 1. See also Human Rights Committee, General Comment No. 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, para. 18.

³⁰ UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principle 11.

³¹ CAT, Article 1; ICCPR, Article 7; UDHR, Article 5; the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 6.

³² CAT, Articles 4-7; Human Rights Committee, General Comment No. 31 on the Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add. 13, 26 May 2004, para. 18.

³³ CAT, Articles 12, 13, and 16; Human Rights Committee, General Comment No. 31, para. 15.

³⁴ CAT, Article 2; Human Rights Committee, General Comment No. 31, para. 18; Human Rights Committee, General Comment No. 20 concerning the prohibition of torture and cruel treatment or punishment, October 1992, para. 3.

³⁵ CAT, Article 14; ICCPR, Article 2(3); see also Human Rights Committee, General Comment No. 31, para. 16 on the right to reparation, including compensation.

Hamas and the Palestinian national reconciliation government created in June 2014 both have obligations under international human rights law that, to date, they have failed to meet in response to the serious human rights abuses detailed in this report. In the first instance, the Hamas de facto administration failed to carry out its international legal obligation to conduct independent investigations into the unlawful killings and other abuses carried out by Hamas forces and others, and to hold those responsible to account. In fact, the Hamas authorities appear to have condoned – possibly even to have ordered – summary, extrajudicial executions that amount to war crimes. In face of that failure, however, neither the Palestinian authorities in Ramallah who had legal responsibility for the Palestinian territories, including Gaza, at the time that the summary, extrajudicial executions and other serious abuses were committed, nor the “national consensus” government that now exercises that responsibility, have taken any effective steps to conduct independent investigations or to identify and hold those responsible to account through criminal prosecutions.

INTERNATIONAL CRIMINAL LAW

International criminal law provides that individuals who commit or order serious violations of international humanitarian law and certain serious human rights violations are individually responsible and should be brought to justice. Serious violations of international humanitarian law, including those prohibited by Common Article 3, are war crimes. Serious human rights violations that are crimes under international law include torture and extrajudicial executions.

When committed in the context of an armed conflict, deliberate and summary killings of people in captivity – be they civilians, soldiers, members of militias, or suspected “informers” or “collaborators” – are war crimes, as are acts of torture and cruel treatment.³⁶

Under international humanitarian law, individuals can be held personally and criminally responsible for war crimes. Military commanders and civilian superiors are criminally responsible for war crimes committed by their subordinates if they ordered such acts or if they knew, or had reason to know, such crimes were about to be committed or were being committed and did not take the necessary measures to prevent their commission, or to punish persons responsible for crimes that had already been committed.³⁷

PALESTINIAN LAW

Although not fully in line with internationally recognized human rights standards, Palestinian laws contain numerous provisions, which – if implemented – would provide important safeguards for detainees against arbitrary arrest and detention, torture, and other ill-treatment.

Article 13 of the Basic Law categorically prohibits the use of torture or duress against detainees and stipulates that statements or confessions obtained as a result of such abuses

³⁶ Rome Statute of the International Criminal Court, Article 8(2)(c).

³⁷ International Committee of the Red Cross, Customary International Humanitarian Law Vol 1: The Rules (Rules 152 and 153).

are considered null and void.³⁸ Some provisions of the 1960 Penal Code No. 16, applicable in the West Bank, and of the 1936 Penal Code No. 76, applicable in the Gaza Strip, provide for limited measure to protect persons against physical harm, while provision 37 of the 1998 Reform and Rehabilitation Centres Law protects against torture and other ill-treatment.³⁹

Palestinian law also contains guarantees against arbitrary arrest and detention. Article 11 of the Basic Law makes it unlawful to arrest and imprison any person except by judicial order in accordance with the provisions of the law, and requires that detainees are held only in places authorized by the laws relating to the organization of prisons. Article 29 of the Penal Procedures Law states:

No person may be arrested or imprisoned except by order of the competent authority as designated by law. He must be treated in a manner that will preserve his dignity and may not be physically or morally harmed.

Palestinian law prohibits holding people in unofficial places of detention. Article 68 of the Penal Procedures Law states: "No person may be detained or confined except in a correctional and rehabilitation centre [a prison] and in the places of detention designated by law." The failure to abide by the above-mentioned Palestinian law and/or these international standards renders a detention or arrest arbitrary under international human rights standards. According to Article 34 of the Palestinian Penal Procedures Law, the detention of any individual prior to their being charged with an offence must be reviewed within 24 hours by a prosecutor, who may extend the detention for an additional 48 hours. After 72 hours of detention, the case must be reviewed by a judge (Article 51), who may extend the pre-charge detention by 15 days (Articles 62 and 63), renewable by a judge every 15 days to a maximum of 45 days.⁴⁰ The law also grants detainees prompt and unhindered access to legal counsel (Article 46). Further, Article 12 of the Basic Law requires that detainees be charged and brought to trial without delay.

³⁸ See, for example, Human Rights Committee, General Comment 29 on States of Emergency (Article 4 of the ICCPR), UN Doc CCPR/C/21/Rev.1/Add.11, para. 11.

³⁹ The Independent Commission for Human Rights, *The Twentieth Annual Report, 2014, 2015* <http://bit.ly/1JsSlfo> (in Arabic).

⁴⁰ The 45-day maximum may be further extended by an additional 45 days on application by the prosecutor to a higher court than that which authorized the first 45 days of detention.

NO ACCOUNTABILITY

Amnesty International is greatly concerned that the Hamas de facto administration in Gaza has not only failed to take action to stop and prevent extrajudicial executions and other serious human rights abuses perpetrated by its forces, but sought to justify and even facilitated or encouraged them. Indeed, by affording the perpetrators total impunity, the Hamas authorities have contributed to the creation of a climate of fear and intimidation that deters many victims and their families from reporting or even disclosing abuses committed against them, suggesting that the true extent of abuses may be significantly greater than that documented by Amnesty International and other human rights groups.

The unlawful killings of alleged collaborators and other serious abuses during Operation Protective Edge that this report documents follow a familiar pattern, echoing previous abuses committed by Hamas and Palestinian armed groups during Israel’s military offensives against Gaza in 2008-2009 and 2012. In November 2012, for example, members of the al-Qassam Brigades extrajudicially executed seven Palestinians in two separate incidents after taking them from the prison where they were held. At least six of the seven had previously been sentenced to death by Hamas courts that convicted them of spying for Israel but appeals that they had lodged were still pending at the time of their killing.

Amnesty International has expressed concern over many years about the climate of impunity for abuses committed by Palestinian security forces in both the West Bank and Gaza, and the failure of both the PA and Hamas either to prevent or to investigate their forces’ use of arbitrary detention, torture, excessive force, and unlawful killings, and to hold those responsible for such abuses to account through criminal prosecutions, even when ample documentation exists.⁴¹

To date, more than nine months after the end of armed conflict, neither the Palestinian government in Ramallah nor the Hamas authorities in Gaza have opened any investigations into the serious abuses under international humanitarian law and international human rights law committed by Hamas forces and Palestinian armed groups during the 50-day conflict, nor held anyone responsible for those abuses to account. This failure to investigate and to ensure accountability echoes the similar failure of the Palestinian authorities to fulfil their international legal obligations in relation to serious abuses committed by Hamas and Palestinian armed groups during previous conflicts with Israel.⁴²

⁴¹ For example, see Amnesty International, *Palestinian Authority: ‘Shut up, we are the police’: Use of excessive force by Palestinian Authority forces in the occupied West Bank* (Index: MDE 21/006/2013), <https://www.amnesty.org/en/documents/mde21/006/2013/en/> (accessed 20 May 2015).

⁴² Amnesty International, *Israel/Occupied Palestinian Territories: Amnesty International’s assessment of Israeli and Palestinian investigations into Gaza conflict* (Index: MDE 15/022/2010), <https://www.amnesty.org/en/documents/mde15/022/2010/en/> (accessed 20 May 2015); *Israel/Occupied Palestinian Territories: Amnesty International’s updated assessment of Israeli and Palestinian investigations into the Gaza conflict* (Index: MDE 15/018/2011),

On 23 July 2014, while Operation Protective Edge was still in progress, the UN Human Rights Council established the UN Independent Commission of Inquiry on the 2014 Gaza Conflict, mandating it to investigate all violations of international law committed "in the Occupied Palestinian Territory, including East Jerusalem, particularly in the occupied Gaza Strip, in the context of the military operations conducted since 13 June 2014, whether before during or after". The UN Commission of Inquiry was due to submit its report to the Human Rights Council in March 2015 but requested a deferral, and is now expected to submit its report in June 2015.⁴³

It is unclear, as yet, whether and to what extent either the Palestinian "national consensus" government or the Hamas authorities that continue to exercise de facto power in Gaza have co-operated with the UN Commission of Inquiry. It is clear, however, that it has been prevented from undertaking investigations on the ground in Gaza as Israel has failed to allow UN investigators to enter Gaza via the Erez crossing point, or to co-operate with the UN Commission of Inquiry in other ways. UN efforts to obtain Egyptian agreement for its investigators to access Gaza via the Rafah border crossing with Egypt also remained unsuccessful as of 22 May 2015, although, on 23 December 2014, the Commission had said that the Egyptian government had agreed to help facilitate access to Gaza by the Commission of Inquiry "as soon as the security situation permits."⁴⁴

In December 2014, Amnesty International wrote to the Palestinian President in Ramallah and the Minister of Justice in Gaza and other Palestinian authorities to urge the Palestinian government to establish an independent commission of inquiry, composed of members known for their independence, integrity, and strong commitment to human rights, to investigate alleged violations of international law during the hostilities. As of 22 May 2015, Amnesty International had yet to receive a response.

In view of the prevailing pattern of impunity for serious crimes and other abuses under international law committed by different actors in Israel and the Occupied Palestinian Territories, Amnesty International last year called for the UN Security Council, the Palestinian and the Israel authorities to do everything within their power to enable the International Criminal Court to investigate and bring to justice those responsible for committing war crimes and crimes against humanity in the 2014 and previous Israeli-Palestinian conflicts.⁴⁵ In this connection, Amnesty International welcomed Palestine's accession to the International Criminal Court, effective from 1 April 2015, and its declaration

<https://www.amnesty.org/en/documents/mde15/018/2011/en/> (last accessed 20 May 2015).

⁴³ UN Independent Commission of Inquiry on the 2014 Gaza Conflict, 9 March 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15670&LangID=E> (last accessed 20 May 2015).

⁴⁴ UN Independent Commission of Inquiry on the 2014 Gaza Conflict, "UN Commission of Inquiry on Gaza hears moving testimony, seeks access", 23 December 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15456&LangID=E> (last accessed 20 May 2015).

⁴⁵ Amnesty International, "Israel/OPT: International Criminal Court key to breaking cycle of injustice for war crimes", 1 August 2014, <https://www.amnesty.org/en/articles/news/2014/08/israelopt-international-criminal-court-key-breaking-cycle-injustice-war-crimes/> (last accessed 20 May 2015).

accepting the Court’s jurisdiction from 13 June 2014.⁴⁶ Following the Prosecutor of the International Criminal Court’s January 2015 announcement of a “preliminary examination into the situation in Palestine”,⁴⁷ Amnesty International urged all states to support the International Criminal Court’s exercise of jurisdiction over Palestinian territory, and to oppose any retaliation or threats by Israel or other states against the Palestinian authorities for acceding to the Rome Statute or taking any further steps with regard to the International Criminal Court.

Given the failure of Palestinian and Israeli mechanisms to independently and impartially investigate serious violations to date and bring suspected perpetrators to justice in fair trials, Amnesty International also continues to urge all states to exercise universal jurisdiction over crimes under international law committed in the context of Operation Protective Edge, and the previous Israeli military offensives in Gaza in 2008-2009 and 2012. States should investigate, and, when appropriate admissible evidence exists, prosecute these crimes in proceedings adhering to fair trial standards in their national courts.

⁴⁶ Amnesty International, “Retaliation against Palestine’s welcome accession to ICC must stop” (Index: MDE 15/001/2015), <https://www.amnesty.org/en/documents/mde15/001/2015/en/> (last accessed 20 May 2015).

⁴⁷ International Criminal Court, “The Prosecutor of the International Criminal Court, Fatou Bensouda, opens a preliminary examination of the situation in Palestine”, 16 January 2015, http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr1083.aspx (last accessed 20 May 2015).

CONCLUSION AND RECOMMENDATIONS

Hamas forces in Gaza, including Internal Security and the al-Qassam Brigades, have committed serious violations of international law by carrying out acts of abduction, torture and unlawful killings.

There is no justification, including during armed conflict, for torturing and/or summarily killing detainees and suspects, whatever the crime they are accused of. Individuals who are suspected of collaborating with or providing information to Israel have the right to be free from torture and arbitrary deprivation of life and liberty. Like any suspects they must either be charged with a recognizably criminal offence and tried in proceedings that conform to international fair trial standards (and without the possibility of the death penalty) or be released. The torture and summary killing of people in captivity – including suspected “informers” or “collaborators” – are, when committed in the context of an armed conflict, serious violations of international humanitarian law, constituting war crimes.

The Palestinian authorities should ensure that the cases documented in this report, among others, are investigated impartially and independently and that, when sufficient admissible evidence exists, suspected perpetrators are brought to justice in proceedings that fully respect international fair trial standards and exclude the death penalty. Palestinian authorities and factions, especially those with an armed wing, must unequivocally denounce extrajudicial executions and summary killings; all should co-operate fully with independent and impartial investigative bodies and assist in bringing perpetrators to justice.

The international community can help break this cycle by supporting international justice mechanisms. Palestine's signature of the Rome Statute and its declaration giving the International Criminal Court jurisdiction from June 2014 open an opportunity for justice and reparation for victims of crimes under international law in Israel and Gaza. That opportunity must be seized before another bloody round of hostilities begins and leaves new victims in its wake.

TO THE PALESTINIAN AUTHORITIES

The Palestinian authorities should co-operate with independent and impartial international investigative mechanisms, judicial or non-judicial, including the Commission of Inquiry set up by the UN Human Rights Council in July 2014 and any follow-up mechanisms established by the Council, by offering complete access to relevant personnel, documents and other material. They should seek to ensure that the cases documented in this report, among others, are investigated impartially and independently and that, wherever there is sufficient admissible evidence, suspected perpetrators are brought to justice in proceedings that fully respect international fair trial standards and without recourse to the death penalty. They should also:

- Co-operate with any investigation of the International Criminal Court, or national courts undertaking investigations under domestic universal jurisdiction laws;
- Sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance;
- Guarantee that victims, witnesses, and others who testify or otherwise complain about human rights abuses will not be targeted, harassed, or intimidated.

The Palestinian authorities in Gaza and all factions, especially those with armed wings, should:

- Agree to the establishment of an independent, impartial and non-partisan national commission of experts to investigate human rights abuses committed by Hamas forces and any other parties, and pledge to co-operate with such a commission and allow it to carry out its work;
- Undertake to take the necessary steps to address the findings and recommendations of the investigation, which should be made public;
- Denounce summary killings and extrajudicial executions and make clear that violations of international humanitarian law will not be tolerated;
- Immediately end any and all campaigns of abductions, deliberate and unlawful killings, torture, and death threats in which their forces have been engaged;
- Undertake to ensure that anyone against whom there is found to be sufficient admissible evidence of responsibility for serious human rights abuses is brought to justice in proceedings that conform to internationally recognized fair trial standards and without recourse to the death penalty.

TO THE ISRAELI AUTHORITIES

The Israeli authorities should co-operate with any independent and impartial international investigation, judicial or non-judicial, including the work of the Commission of Inquiry set up by the UN Human Rights Council in July 2014 and any follow-up mechanisms established by the Council, by offering complete access to relevant personnel, documents, and other material. They should seek to ensure that the cases documented in this report, among others, are investigated impartially and independently and that, wherever there is sufficient admissible evidence, any alleged perpetrator is brought to justice in proceedings that fully respect international fair trial standards. They should also:

- Allow Amnesty International and other human rights organizations, as well as UN-appointed investigators, including any follow-up mechanisms to the Commission of Inquiry and UN special rapporteurs, unrestricted access to Israel and the Occupied Palestinian Territories, including the Gaza Strip, to investigate these and other suspected violations of international law by all parties to the conflict;
- Co-operate with any investigation of the International Criminal Court, or national courts undertaking investigations under domestic universal jurisdiction laws;
- Rescind any punitive measures taken following Palestine's signature of the Rome Statute and refrain from imposing any additional punitive measures if the Palestinian authorities take further steps to pursue international justice for crimes under international law;

- Completely lift the blockade on the Gaza Strip, including by permitting the unrestricted transfer of construction materials into the Gaza Strip and the transfer of goods from Gaza to Israel and the West Bank, subject only to necessary and proportionate security checks, as an essential step towards addressing the shelter and protection needs of Gaza's 1.8 million civilians;
- Accede to the Rome Statute of the International Criminal Court and issue a declaration accepting the International Criminal Court's jurisdiction since 1 July 2002.

TO OTHER GOVERNMENTS

- All states should provide full support to the UN-mandated Commission of Inquiry and any follow-up mechanisms established by the Human Rights Council, and encourage the Israeli and Palestinian authorities to co-operate with them.
- All states, and international actors such as the European Union, should support the International Criminal Court's exercise of jurisdiction over Palestinian territory, encourage all parties to co-operate with the Prosecutor of the International Criminal Court, and oppose any retaliation or threats against the Palestinian authorities for acceding to the Rome Statute and submitting an Article 12(3) declaration accepting the Court's jurisdiction, or for any other moves to request that the Prosecutor of the International Criminal Court investigate crimes under international law. In addition, all states should press the Israeli authorities to rescind the punitive measures taken following Palestine's signature of the Rome Statute.
- Individual states should start criminal investigations in national courts, exercising universal jurisdiction, wherever there is sufficient evidence of war crimes or other crimes under international law, and seek to arrest suspected perpetrators and bring them to justice in proceedings that fully respect international fair trial standards.
- All states should suspend the transfer to Palestinian armed groups and Israel of arms, munitions, weapons, and military equipment until substantive steps have been taken to achieve accountability for previous violations and effective mechanisms are in place to ensure that weapons and related equipment will not be used to commit serious violations of international human rights and humanitarian law. The suspension should include all indirect exports via other countries, the transfer of military components and technologies, and any brokering, financial, or logistical activities that would facilitate such transfers.

‘STRANGLING NECKS’

ABDUCTIONS, TORTURE, AND SUMMARY KILLINGS OF PALESTINIANS BY HAMAS FORCES DURING THE 2014 GAZA/ISRAEL CONFLICT

Hamas forces in Gaza committed serious human rights abuses, including abductions, torture and summary and extrajudicial executions with impunity during the 2014 Gaza/Israel conflict. To date, no one has been held to account for committing these unlawful killings and other abuses, either by the Hamas de facto administration that continues to control Gaza and its security and judicial institutions, or by the Palestinian “national consensus” government that has had nominal authority over Gaza since June 2014.

Hamas forces subjected at least 23 alleged to have collaborated with Israel to summary, extrajudicial executions. Three men died in custody in suspicious circumstances just a few days after they were arrested and tortured. The fate and whereabouts of another man that Hamas forces detained and subjected to enforced disappearance in the first week of Operation Protective Edge remains unknown more than nine months after the conflict ended. Hamas forces also abducted or attacked members and supporters of Fatah, their main rival political organization within Gaza, including former members of the Palestinian Authority security forces, torturing some of them.

Amnesty International is calling on the Palestinian authorities to ensure that the cases documented in this report, among others, are investigated impartially and independently and that, wherever there is sufficient admissible evidence, suspected perpetrators are brought to justice in proceedings that fully respect international fair trial standards and without recourse to the death penalty.

amnesty.org

Index: MDE 21/1643/2015
May 2015

**AMNESTY
INTERNATIONAL**

