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2002/71511-29 - 6

17/10-02

ISRAEL AND THE OCCUPIED TERRITORIES AND THE PALESTINIAN AUTHORITY

Killing the future: Children in the line of fire

October 2002

SUMMARY

AI INDEX: MDE 02/005/2002

DISTR: SC/CO/GR/PO/CC

More than 250 Palestinian children and 72 Israeli children have been killed since the beginning of the *intifada*. They were amongst some 1,700 Palestinians and more than 580 Israelis, most of them civilians, who have been killed since 29 September 2000. Increasingly, children are bearing the brunt of the conflict, as both the Israeli Defence Forces (IDF) and the Palestinian armed groups show an utter disregard for the lives of children and other civilians.

Most Palestinian children have been killed by the IDF's excessive and disproportionate use of lethal force against demonstrators and stone-throwers and their reckless shooting, shelling and aerial bombardments of residential areas. Some were killed as bystanders during Israel's extrajudicial execution of Palestinian activists or when their homes were demolished, and others died because they were denied access to medical care by the IDF. Others were killed by armed Israeli settlers.

Israeli children have been killed in direct and indiscriminate attacks, including suicide bombings, and shootings by Palestinian armed groups and individuals both inside Israel and in Israeli settlements in the Occupied Territories or on roads leading to these settlements.

The pattern of killings of children which has become so entrenched and widespread in the past two years developed against a background of impunity for the perpetrators of such crimes over many years prior to the current *intifada*. In the past two years the problem of impunity has taken an unprecedented dimension.

No judicial investigation is known to have been carried out into any of the killings of children by members of the IDF in the Occupied Territories, even in cases where Israeli government officials have stated publicly that investigations would be carried out, and none of the IDF members responsible for these crimes are known to have been brought to justice. The Israeli authorities' assertions that in a situation of armed conflict investigations into killings of civilians are not necessary stand in stark contradiction with Israel's obligations according to the international human rights treaties it has ratified.

The Palestinian Authority (PA) for its part has failed to take the necessary measures to prevent attacks on Israeli civilians by Palestinian armed groups and to bring to justice those responsible for the killings of Israeli children and other civilians.

The impunity thus far enjoyed by both members of the IDF or other Israeli security forces and by members of Palestinian armed groups responsible for the killing of so many children over the past two years can only have contributed to encouraging such practices.

This report deals exclusively with the killing of children, the most grave and irreversible of the many abuses to which Palestinian and Israeli children have been subjected in the past two years. Amnesty International calls on the Israeli and Palestinian authorities to promptly take concrete and effective steps to prevent the killing of children, to ensure that thorough, impartial and public investigations are carried out into each case of killings of children, and that those responsible are brought to justice. The organization reiterates its call on the Palestinian armed groups to immediately stop targeting children and other civilians, and renews its calls on the international community to take concrete action with a view to sending international monitors to Israel and the Occupied Territories and to work resolutely to persuade the Israeli government to accept the presence of international observers. Amnesty International believes that, had such observers been sent to the area when it and other organizations first called for them in October 2000, their presence may have saved the lives of Israeli and Palestinian children and other civilians.

This report summarizes a 30-page document (11,721 words): ISRAEL AND THE OCCUPIED TERRITORIES AND THE PALESTINIAN AUTHORITY: Killing the future: Children in the line of fire (AI Index: MDE 02/005/2002) issued by Amnesty International in October 2002. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email: <http://www.web.amnesty.org/web/news.nsf/thisweek?openview>

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[EMBARGOED FOR: 1 October 2002]

Public

amnesty international

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Killing the future: Children in the line of fire



Clockwise: Sami Fathi Abu Jazzar © AP; Danielle Shefi © AP; Riham al-Ward © Private; house in Khan Yunis © AI

October 2002
AI Index: MDE 02/005/2002
Distr: SC/CO/GR/PO/CC

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ISRAEL AND THE OCCUPIED TERRITORIES AND THE PALESTINIAN AUTHORITY

KILLING THE FUTURE: Children in the line of fire

Introduction

Since the beginning of the *intifada*, the Palestinian uprising against Israeli occupation of the West Bank and Gaza Strip which broke out in September 2000¹, Palestinian and Israeli children have been targeted in an unprecedented manner. In the period from 29 September 2000 to the end of August 2002, some 1700 Palestinians, including more than 250 children, were killed, and more than 580 Israelis, most of them civilians and including 72 children, were killed.²

The overwhelming majority of Palestinian children have been killed in the Occupied Territories when members of the Israeli Defence Forces (IDF) responded to demonstrations and stone-throwing incidents with excessive and disproportionate use of force, and as a result of the IDF's reckless shooting, shelling and aerial bombardments of residential areas. Palestinian children have also been killed as bystanders during Israel's extrajudicial execution of targeted activists, or were killed when their homes were demolished. Others died because they were denied access to medical care by the IDF. At least three Palestinian children have been killed by armed Israeli settlers in the Occupied Territories.

Israeli children have been killed in direct and indiscriminate attacks, including suicide bombings, and shootings by members of Palestinian armed groups and by Palestinian individuals who may not belong to armed groups³, both inside Israel and in settlements or on roads leading to settlements in the Occupied Territories.

¹ On 29 September 2000, Israeli security services killed five people (following the controversial visit by the current Prime Minister Ariel Sharon - who at the time was a Member of the Israeli Knesset [Parliament] for the Likud Party - to the Temple Mount/*al-Haram al-Sharif*, one of most important sites for Muslims and Jews) in excessive and unlawful use of lethal force. Protests quickly spread to Israel, all parts of the West Bank and Gaza and developed into an uprising against Israeli occupation of the West Bank which continues to the present day and which has become known as the *al-Aqsa intifada*.

² According to the UN Convention on the Rights of the Child (CRC), and most other international standards, a child is anyone under the age of 18. Amnesty International also uses this definition.

³ Palestinian armed groups which have claimed responsibility for attacks in which children have been killed include *Hamas*, *Islamic Jihad*, the *al-Aqsa* Martyrs Brigade, and the Popular Front for the Liberation of Palestine (PFLP).

The patterns of killings described in this report show how the right to life of Palestinian and Israeli children has been repeatedly violated as a result of the systematic failure of the Israeli authorities, Palestinian armed groups, and the Palestinian Authority (PA) to comply with the obligations and safeguards set down in international human rights and humanitarian law.

This report focuses on the killing of children, the most grave and irreversible of the many abuses to which Palestinian and Israeli children have been subjected in the past two years.⁴ Over the years, Amnesty International and other organizations have documented different patterns of serious and systematic violations of some of the most fundamental human rights -- including the right to life-- in Israel and the Occupied Territories.⁵

KILLINGS OF PALESTINIAN CHILDREN

The alarming pattern of killing of Palestinian children by the IDF was established at the outset of the *intifada* and has continued. On the second day of the *intifada*, on 30 September 2000, four children were killed by IDF fire.⁶ The following day another four children aged between 12 and 17 were again killed by other security services. Within a month some 30 Palestinian children had been killed by IDF fire and by the end of the year 2000 the number was over 80.⁷

The rate at which Palestinian children were being killed decreased slightly during 2001 but increased again in 2002. In the first seven months of 2002 alone, more than 100 children were killed by IDF fire and the age of the victims was significantly lower than in the previous two years: in 2002, some 48% of the children killed were 12 years old or younger, as compared with some 35% in 2001 and about 13% in 2000.

⁴ This report focuses on the period since the start of the *al-Aqsa intifada* at the end of September 2000 until the end of August 2002.

⁵ See previous AI reports, notably. *Broken lives – A year of intifada*, 2001 (AI Index: MDE 15/083/2001); *The heavy price of Israeli incursions*, April 2002 (AI Index MDE 15/042/2002); and *Without Distinction: Attacks on civilians by Palestinian armed groups*, July 2002 (AI Index: MDE 02/003/2002).

⁶ Among those killed on 30 September 2000 was 12-year-old Muhammad al-Dura whose killing was recorded by a cameraman for the French television channel *France 2* and broadcast by television stations worldwide and which sparked anger and fuelled further demonstrations and clashes; see *Broken lives – A year of intifada*, 2001, (AI Index: MDE 15/083/2001); page 15.

⁷ During the first 10 days of the *intifada* a Palestinian child citizen of Israel was also killed in Israel by Israeli security forces who used excessive lethal force against demonstrators. See *Broken lives – A year of intifada*, 2001 (AI Index: MDE 15/083/2001), pages 23 to 27.

In the first months of the *intifada*, the majority of child victims were killed as a result of the unlawful and excessive use of lethal force in response to demonstrations and stone-throwing incidents, when the lives of IDF soldiers were not at risk. In 2002 the majority were those children killed when the IDF randomly opened fire, or shelled or bombarded residential neighbourhoods in Palestinian towns and villages. Most of these children were killed when there was no exchange of fire and in circumstances in which the lives of the soldiers were not at risk.

Children killed in demonstrations and as a result of reckless IDF fire

During the first months of the *intifada* children were mostly killed during stone-throwing demonstrations, though in many cases they appear to have been bystanders during these demonstrations.

Sami Fathi Abu Jazzar. On 10 October 2000 Amnesty International delegates witnessed the aftermath of a stone throwing demonstration in Rafah on the southern edge of the Gaza Strip. Israeli soldiers shot at a crowd of some 400 people, mostly primary schoolchildren, who were throwing stones at an Israeli military post. Sami Fathi Abu Jazzar was shot in the head; a live bullet entered his forehead above his left eyebrow, went through the skull diagonally and exited at the back of his head. He died the following day, on the eve of his 12th birthday. Six other children were injured by live fire in the same incident. Amnesty International delegates, including an expert in riot policing, concluded that the lives of Israeli soldiers were not in danger and that their use of lethal force was unjustified, as their position was not only heavily fortified, but there were also two wire fences between the post and the stone throwers, who were some 200 metres away.

Muhammad Ibrahim Hajaj, Ahmed Suleiman Abu Tayah and Ibrahim Reziq Omar, all 14 years of age, were shot dead and several other children were wounded on 1 November 2000 by the IDF in the Gaza Strip, on the road between Netzarim junction and the Karni crossing into Israel, in a place which over the past two years has been a regular demonstration site for children who gather to throw stones at IDF tanks and/or at the IDF tower. Muhammad Ibrahim Hajaj was shot in the neck and Ahmed Suleiman Abu Tayah and Ibrahim Reziq Omar were shot in the head and chest. All three died immediately. Several other children were wounded, including two 10-year-olds who were shot in the abdomen and in the right shoulder. According to eyewitnesses and to medical records, the children were fired on with live ammunition from a distance of about 150 metres.

Fifteen-year-old **Muhammad Musbah Isma'il Abu Ghali** was shot in the chest from an IDF jeep at Tuffah checkpoint in Khan Yunis, in the Gaza Strip, on the afternoon of 8 November 2000. Two UN staff members who were on their way back from the Mawasi area witnessed the shooting. According to one of them: "There was a group of children standing around the rubble of the demolished houses by the Tuffah checkpoint but

they were not throwing stones or demonstrating. Two IDF jeeps arrived and after a moment a soldier fired a single shot which hit Muhammad in the chest and he fell. I knew the boy and I approached him and he said 'My bicycle key is in my pocket'. I asked him if he was OK and he didn't reply and pulled from his pocket the key, three photos and three shekels and then slumped back. The ambulance arrived to take him to hospital and he died on the way."

Khalil Ibrahim al-Mughrabi. On 7 July 2001 three children were shot by IDF sniper fire as they were flying kites and playing soccer in an open space near the border fence at Rafah. Khalil Ibrahim al-Mughrabi, age 11, was killed by a high-velocity bullet in the head. Ibrahim Kamel Abu Sussain, age 10, and 13-year-old Suleiman Turki Abu Rijal were also shot and both sustained serious injuries in the abdomen and in the testicles, respectively. The shots came from an IDF post about 800 metres away, and the boys were in a large, open space. According to testimonies given to Amnesty International by Ibrahim Kamel Abu Sussain and by other children who were present at the time of the incident, there were no disturbances or clashes in the area at that time. The IDF claimed that there had been rioting and throwing of fragmentation grenades in the area at the time, but confidential IDF records showed that this was untrue. On 8 November 2001, the IDF informed the Israeli human rights organization B'Tselem that it had decided not to initiate an investigation of the incident because there was no suspicion of criminal behaviour by the soldiers. However, a file was attached to the IDF's response, apparently in error, which contained internal records of the IDF's operational de-briefings and the opinions of the IDF Southern Command Judge Advocate and of the Chief Military Prosecutor. These documents, which have been made public by B'Tselem, show that the IDF, in spite of the evidence, decided not to order a Military Police investigation and cleared the soldiers who killed Khalil al-Mughrabi and injured the two other children, and that in its response to B'Tselem the IDF deliberately presented an incorrect version of the incident.⁸

Children killed in attacks on residential areas and as bystanders during Israeli state assassinations

Israel has pursued a policy of extra-judicially executing Palestinians whom it accuses of having been involved in attacks on Israelis, instead of arresting them and bringing them to justice. Such practice is in breach of international standards. More than 20 children and 20 other bystanders have been killed during these state assassinations, in a policy which has been ordered and approved at the highest level of the Israeli government, including by the Prime Minister, the Minister of Defence and the Minister of Foreign Affairs.

⁸ See B'Tselem's report: *Whitewash, The Office of the Judge Advocate General's Examination of the Death of Khalil al-Mughrabi, 11, on 7 July 2001*. Case Study 13, issued in November 2001.

On 22 July 2002, just before midnight, the IDF dropped a one-ton bomb from an F-16 aeroplane on a densely populated neighbourhood of Gaza city killing 17 people, including **nine children**, and wounding more than 70 others, many seriously. The children killed were: **Ayman Ra'ed Matar** (18 months), **Muhammad Ra'ed Matar** (three years), **Diana Ra'ed Matar** (five years), **Subhi Mahmud al-Hweiti** (four years), **Muhammad Mahmud al-Hweiti** (six years), **Dina Rami Matar** (two months), **'Ala' Muhammad Matar** (10 years), **Iman Salah Shehada** (15 years), and **Maryam Matar** (17 years, seriously injured in the attack, she died on 15 August).

The attack destroyed the house of leading *Hamas* activist Salah Shehada, who was among those killed. Two other houses were completely destroyed, and four homes left uninhabitable. The Israeli authorities accused Salah Shehada of having been responsible for organizing a number of suicide attacks. Given the location of the target, in a densely populated civilian area, and the method of attack selected, those responsible for planning this attack must have known that civilians, including children, would be killed and wounded.

Six-year-old **Ashraf Khader** and his 11-year-old brother **Bilal** were killed on 31 July 2001 when the IDF launched a rocket attack on an apartment building in a busy residential area in Nablus. The attack targeted and killed two *Hamas* leaders, Jamal Mansur and Jamal Salim, as well as four others; 15 people were wounded. The children had been playing outside, waiting for their mother while she visited a clinic in the same building.

On 10 December 2001, three-year-old **Burhan al-Himuni** 13-year-old and **Shadi Ahmad 'Arafe** were killed in a failed Israeli assassination attempt on a suspected Islamic *Jihad* activist. The target of the attack jumped clear of his car moments before two missiles fired by the IDF from helicopter gunships slammed into a busy Hebron intersection. Burhan al-Himuni and his father Muhammad were trapped inside the car; the child was decapitated. The other child, Shadi 'Arafe, was travelling in a taxi behind the targeted car; the taxi and a third vehicle were destroyed.

By the end of 2000, although many children were still being killed in stone-throwing demonstrations, more killings were taking place during reckless shooting and shelling of civilian residential areas. Shooting and shelling has been both unprovoked and in response to Palestinian gunfire, Molotov cocktails or other attacks. However, in responding to real or perceived Palestinian attacks, the IDF used reckless and disproportionate force, killing at least 80 Palestinian children and seriously injuring hundreds of others.

In certain areas of the Gaza Strip frequent IDF shooting and shelling of densely populated residential areas appear to have aimed at creating "no-go areas" between Khan

Yunis refugee camps and the Israeli settlement block of Gush Katif, and between Rafah refugee camp and the IDF security fence along the Egyptian border and around the IDF bunker. Amnesty International delegates who visited these areas at regular intervals in the past two years noticed the progressive expansion of these "no-go-areas" and witnessed the IDF's reckless and unprovoked shooting into these areas and towards children and adults alike (including in the direction of Amnesty International delegates).

Hani Yusuf al-Sufi was killed on the morning of 20 December 2000. There had been shooting in Rafah from Israeli positions and people took shelter in their houses. At around 9.45am, Hani Yusuf al-Sufi, aged 15, and five friends were standing in a narrow alley-way when a grenade hit the wall above their heads. His father told Amnesty International delegates:

"I was going to my house and I saw my two sons with other people crowded in the narrow alley so I told them not to stay outside but to go home as Israelis were shooting indiscriminately. I crossed the road and a shell hit the road. I heard a loud explosion and my neighbour said my son was injured. I said it was impossible as I had told him to go back. I ran to the narrow street. What I saw was incredible - six boys in a pile, all injured. I saw my younger son Hani. I tried to take him up, I saw he was alive. Young men came to help but I told them to carry the other son. Because of his injuries in the head, back and neck I couldn't go on and collapsed after two to three metres. I tried to stand again but they came and took him from my hands and at that moment he died."

Hamid al-Sufi and a cousin, Muhammad Saqer al-Sufi, described to Amnesty International delegates how they heard an extremely loud explosion and then felt a wave of air pressing down on them. After the explosion they could not hear for two days. The shrapnel collected by the family from the area, and examined by an Amnesty International military advisor on the spot and later by experts in London, and the description of those who survived the attack suggest that the shrapnel that killed Hani came from an M203 grenade launcher. The pattern of damage to the roofs of houses in Khan Yunis indicated that similar grenade launchers were used against residential areas in Khan Yunis.⁹

Four-month-old baby Iman Hijju was killed on the morning of 7 May 2001 by heavy IDF shelling in Khan Yunis. Thirteen other civilians, including seven children, were wounded, some of them seriously. At about 11am artillery shells and heavy and medium

⁹ According to military experts, a grenade launched from an M203 at an opponent through a window would kill or injure not only the opponent, but anyone else in the room. Grenades are designed to cause damage to a target area, but when used at greater distances in densely populated areas, they recklessly endanger the lives of the civilian population.

calibre bullets were fired from IDF bases inside the Gush Katif settlement block into several areas of Khan Yunis refugee camp, Hay al-Amal and Nimsawi districts. According to testimonies given to Amnesty International by survivors, residents, and United Nations Relief and Works Agency (UNRWA) staff members who were present in the area, the IDF shelling was intense and lasted for over half an hour. There was no Palestinian fire at the time in the area, though according to some there had been Palestinian fire earlier that morning but not from the areas shelled by the IDF. At the time of the shelling 20-year-old Suzanne Hijju was visiting her mother and relatives in Hay al-Amal with her four-month-old baby, Iman. The house is very near to one of the IDF bases and, fearing that the house could be shelled, Suzanne Hijju and her mother decided to take the children to safety elsewhere. As they stepped out of the house a shell landed and exploded on the doorstep. Baby Iman was hit by a large piece of shrapnel which entered her stomach and went through her back, disembowelling her. Suzanne Hijju and her 38-year-old mother, Samia, were seriously injured by large pieces of shrapnel throughout the body and Samia's children, 18-month-old Mahmoud and six-year-old Dunia, were also wounded by shrapnel. Mahmud sustained serious abdomen injuries and Dunia was injured in the hand and leg.

Riham al-Ward, a 10-year-old schoolgirl, was killed on 18 October 2001 when her school, the al-Ibrahimiya school in Jenin, was shelled during an Israeli attack and incursion into the city. The tanks started shelling just as children were arriving at the school; the director gathered the children in the yard into a ground-floor classroom. One girl was hit in the doorway of the room and Riham, who turned to help her, was hit in the heart and died before reaching hospital. The IDF was initially reported as claiming that there were armed Palestinians operating from the area and was later reported as admitting that they had made a mistake in shelling the school.

On 17 May 2002 a seven-year-old boy, 'Amid Abu Sa'ir from Nablus, was killed by IDF tank fire near his house. 'Amid was with his father on his way to Friday prayers at the mosque. They were shot while sheltering behind a door in the passage leading to their house. Eyewitnesses told Amnesty International that IDF soldiers fired from two tanks in response to several boys (aged 8 to 13) who were on the main 'Askar Road and were throwing stones at the tanks. No other gunfire was reported. 'Amid's father, Muhammad 'Abd al-Samad Abu Sa'ir, told Amnesty International:

"It was Friday just before prayers. I am used to taking my son 'Amid with me to the mosque on the main 'Askar Road. I heard tanks coming from the east when I was still standing at the entrance to my house, which is located just on the main road. 'Amid was standing right next to me. He was very frightened and went back into the house. He told me "There are dogs [referring to the tanks], I don't like them". I told him that we would wait in the house and then try to go to the mosque later. Within a few minutes, more tanks were coming. I could hear them close to my house. There

was no shooting, just the sound of tanks. The door to the main street was closed and I was about five metres from the door. 'Amid came to me and said that the speakers had called us to prayer and that we were getting late. Just at this time, it was about 12.30pm, bullets came through the door. When I heard the bullets, I held on to my son and turned my back to the door. I was hit with splinters from the door from the waist to the bottom of my leg.

"I had started to move toward the stairs, and looked at my son's face. He had blood coming from his mouth and I also noticed some blood on his arm. He said "Daddy, I am hit, Daddy I am hit". I began to yell "'Amid, 'Amid" and my wife came. She called out for an ambulance and while she held on to him he lost consciousness. We did not wait for an ambulance, my nephew came with a car and we took 'Amid to the Ittihad hospital but he did not survive."

Six-year-old **Ahmad Ghazawi** and his 12-year-old brother **Jamil** were killed near their home in Jenin on 21 June 2002 by an IDF tank shell, which also wounded their 11-year-old brother, Tareq. Part of the incident was captured on video tape by a neighbour. The boys' father, Yusuf Ghazawi, told Amnesty International that a cousin who had come to the house from the east part of the city had informed him that the curfew which had been in place since 18 June had been lifted. Shortly after this, Ahmad asked his father for a shekel so he could buy something at the shop. It was about 11.30am. About ten minutes later, he was warned by neighbours that he should go to the hospital to find his children. Twelve-year-old Rami 'Imad Khader, who was with Jamil and his brothers at the time, described what happened to Amnesty International:

"I heard that the curfew had been lifted. When I heard this, I went out and joined my friends, Jamil, Tareq, Ahmad, Muhammad, Wa'el and Wassam. We all headed off to the main street. Jamil, Tareq, Ahmad and Wa'el were on their bikes and the rest of us were on foot. When we reached the intersection with the main street, we saw IDF jeeps by the square and became afraid. We headed back toward home, and stopped and stood to the side of a building on our street when we heard the sound of a tank go by. We then saw another tank about 300 metres from us, so we left the building and began to hurry back home. Jamil was telling Ahmad and Tareq to leave quickly as there were tanks. The tank was now situated at the end of the street and then I saw Dr. Samer's car coming toward us. He was blowing the horn to warn us to get out of the way.¹⁰ The next thing I remember is a red light and then an explosion. I think the bomb hit the wall of our neighbour's house and bounced off.

¹⁰ Dr Samer, a veterinary working with the Palestinian Agricultural Relief Committees (PARC) was hit by the first IDF tank round and injured by four bullets in the lower back while driving his car from Jenin market to his home, which is near the Ghazawi brothers' house.

"I moved toward the side when I heard the bomb. After that I came back toward the street and first saw Ahmad. He did not have a left leg and his stomach was on the road. I saw Jamil: he was injured in his back and was shaking his hands. He opened his eyes for a minute and then closed them. Tareq was near an electric pole, we found him last. One of his legs had a hole in it and pieces of the bomb were in his stomach, his ear and his back."

Children killed by flechettes and booby-traps

Several children have been killed by flechette shells or explosive devices used by the IDF in densely populated areas. Flechette shells are 120mm shells filled with up to 5,000 potentially lethal five-centimetre long steel darts or flechettes. Although not illegal *per se* under international law, such weapons should never be used in populated areas. In a visit to Khan Yunis in September 2001, Amnesty International delegates saw flechettes embedded in the wall of a house where 14 people lived, most of them children.

Seventeen-year-old **Hikmat al-Malalha**, her mother Nasra and cousin Salmiya were killed on 9 June 2001 when a flechette shell hit their tent in Zeitoun, a Bedouin village just southwest of Gaza City and about 1.5 km from the Israeli settlement of Netzarim. Three other family members were wounded. On 11 June, Prime Minister Ariel Sharon said that the killing of the three women should not have happened. IDF officials, who at first had said that troops were returning fire from the area, confirmed the next day that the shelling had been a mistake and said there would be an inquiry. However, on 17 July 2001 the IDF replied to a complaint filed by the PCHR saying that since the incident occurred in a war situation, no complaint could be accepted. Two days later, on 19 July, the Israeli daily Ha'aretz reported that the Chief Military Prosecutor was to appoint an investigative officer to investigate this case. In January 2002 the Head of the IDF Legal Department told Amnesty International delegates that the case was still under investigation. To date, more than two years after the incident no judicial investigation is known to have been opened and none of the eyewitnesses and survivors of the tank shell attack have ever been contacted by the Israeli authorities to receive their testimonies.

Muhammad Ahmad Lubud (17), **Muhammad 'Abd al-Rahman al-Madhun** (15) and **Ahmad Muhammad Banat** (15) were killed on 30 December 2001 near the Eli Sinai settlement in the northern Gaza Strip. IDF statements initially described them as "terrorists" intending to place a bomb near a settlement. The IDF later admitted that the boys had not had a bomb but said they did have a bag containing two knives. They were killed by a tank shell containing flechettes fired from some 1200 metres away. The bodies of the three were taken to Israel for an autopsy and only returned after four days. The incident attracted a lot of publicity because of Palestinian claims that the boys had been taken away alive. The Knesset Foreign Affairs and Security Committee asked to see the IDF film of the killings and invited certain human rights organizations to the viewing. The

film showed them moving away from the tank when they were hit with flechettes. One of the boys was run over by a tank; this was also shown in the conclusions of the autopsy and was admitted by the Israeli military commander for the Gaza Strip. The Israeli military commander of the Northern Gaza Strip Brigade admitted to the Knesset committee that flechettes had scattered up to 100 metres from the killings.

On 22 November 2001 five boys from the Istal family were killed by a booby trap device as they walked to school in Khan Yunis: six-year-old Akram 'Abd al-Karim al-Istal; Muhammad Na'im 'Abd al-Karim al-Istal, age 14; 'Umar Idris al-Istal, age 13; Anis Idris al-Istal, 11; and Muhammad Salman al-Istal, also 11. Amnesty International delegates visited the site on 1 February 2002. The IDF at first denied responsibility for the explosion but subsequently admitted having placed the device there in the hope that it might detonate against armed Palestinians who sometimes shot during the night from the area. Such a device should never have been placed in such a public location, or at least should have been immediately defused before morning, as this is an area where many people passed, especially children on their way to school.

Children killed as a result of the demolition of houses

In Jenin, Nablus and other places the IDF bulldozed a number of houses while residents, including children, were still inside. On other occasions the IDF used explosives to blow up houses without evacuating the surrounding houses, which were also destroyed or damaged in the process. In some cases civilians, including children, were killed or buried alive under rubble of the demolished house. In the cases researched by Amnesty International, no warnings were apparently given for the safe evacuation of civilians before houses were demolished.

Three children, 'Abdallah, 'Azam and Anas al-Shu'bi, aged four, seven and nine years, their pregnant mother and four other relatives died under the rubble of their house which was demolished by the IDF on 6 April 2002 in the Qasbah (Old City) of Nablus during a period of strict curfew imposed by the IDF. Two survivors were eventually pulled from under the rubble, nearly one week after the house was demolished. Neighbours of the family interviewed by Amnesty International stated that the IDF had given no warning before beginning to destroy the house with bulldozers, and that they had been fired upon by the IDF when they defied the curfew in an attempt to search for survivors under the rubble of the destroyed house.

Mahmud 'Umar al-Shu'bi, the children's cousin, told Amnesty International that on the afternoon of 12 April the curfew was lifted for two hours and he went to look for his father and sister. When he arrived at the family house, he found that it had been demolished. Mahmoud said that he started to dig with the help of his neighbours, hoping to find his relatives alive under the rubble. Because it started to rain, the mud made the process more

difficult. He carried on digging after the curfew was reimposed and was fired upon several times; late that night, the rescuers came across a small opening on the ground floor of where the house once stood. In the small space that remained, they found his 68-year-old uncle, 'Abdallah, and his 67-year-old wife, Shamsa, who had managed to survive. They carried on digging throughout the night and at 1.30am, found the bodies of the rest of the family, who had died huddled in a circle, in one small room: his father 'Umar, his sister Fatima, his cousins Samir and his 7-month pregnant wife, Nabila, and their three children: 'Abdallah, Azam and Anas, as well as another cousin 'Abir. Afterwards neighbours told Mahmud that they could hear the screams of the family above the noise of the bulldozer but had not been able to help and that the bulldozer had actually collapsed down on top of the house, which was built on a slope.

Fares al-Sa'adi, 12 years old, was killed on the evening of 21 June 2002, when the IDF blew up an unoccupied house adjacent to his family home in the Old City area of Jenin. The explosion also destroyed the house of the al-Sa'adi family, trapping eight members of the family under the rubble. Fares was killed and two other family members were seriously injured. No warning was given to the family before the explosion despite protest s from a neighbour who had been forced by the IDF to check the adjacent house.¹¹ Amnesty International interviewed neighbours as well as family members. The accounts of the incident are consistent that no warnings were given. The IDF has claimed the targeted property was used to store munitions. Regardless of whether such claim is well-founded or not, there was a gross failure on the part of the IDF to protect the civilian population in the immediate area.

A neighbour of the al-Sa'adi family told Amnesty International:

"[...]The soldiers told me that they were going to demolish the house. I saw the bomb. I explained to the soldiers that there were actually two houses, not just this one, and that only a common wall separated them. I told them that if they exploded this house the other one would also fall. I said that there were children next door. I asked the soldiers to give me permission to knock on the door and warn them, but they said no. They told me that they knew how to do their business and that they were only going to explode this particular house... After a very short time, I heard an explosion."

¹¹ During its operations, the IDF forced Palestinians to serve as "human shields", making them enter or approach houses where there might be armed Palestinians or explosives.

Fares's father, Hassan Fares al-Sa'adi, was with his family at the time of the explosion:

"All of a sudden, there was an explosion and the roof fell down. I was then under the rubble. When I got out, I was calling to my children. I first heard Mahmud (11), who was injured on his left ankle. I then heard my daughter Asil (8) whose leg was broken and had a head injury. My wife had injuries all over the left side of her body and she was cut and bleeding. Up until now she cannot hear well in her left ear. I then found my daughter Hadil, who was unconscious. After that I found my niece Muna; she had a back and leg injury. We then found Fares. At that moment, I didn't know if he was alive or dead."

Death of children as a result of denial of access to medical care

Palestinian women in labour have been held up at checkpoints, and delayed or even prevented from passing through to reach hospital; in several cases such delays have resulted in loss of life for the babies and their mothers.

Seventeen-year-old **Rana al-Jayusi**, from Kur (a village between Tulkarem and Qalqiliya), went into labour on the morning of 9 March 2002. She was unable to get to the hospital because the roads were blocked. She gave birth at the house of a midwife where the infant died at birth. Her condition deteriorated and her husband tried to take her to the hospital in Qalqiliya. Soldiers at the checkpoint delayed them for about thirty minutes and only then summoned an ambulance. When the ambulance arrived, she was already dead.

Tahani Assad 'Ali, a 35-year-old pharmacist, went into labour on 12 April 2002, when she was at the end of her eighth month of pregnancy. She was at home with her husband 'Ali al-Sha'ar, a physician working for Save the Children in Jerusalem. Nablus was under curfew and when her husband called the Red Crescent to ask for an ambulance they responded that the Israeli army was not letting them move about, but that they would try. After about 15 minutes, he called again and they said that they had tried to come but the IDF had ordered them to return. 'Ali asked them to try to coordinate with the International Committee of the Red Cross (ICRC). A few minutes later, somebody from the Red Crescent informed them that they had tried again, but the IDF fired at them and forced them to return. The third time 'Ali called the ambulance driver said that he would take the risk and try to get through without Red Cross coordination. 'Ali asked him not to endanger his life, and tried to seek help calling the director of Save the Children in Jerusalem, who promised that he would call some organizations that might be able to help.

Around 6pm, Tahani's labour pains got worse, and 'Ali called Dr. Salem Tabila, an obstetrician who lives nearby. He and 'Ali delivered the baby boy, which was born shortly after 6pm. His condition was normal. About fifteen minutes later, though, his condition

started to deteriorate. He started to turn blue, and he stopped crying. 'Ali gave him first aid, but his condition worsened and he died.¹²

Amnesty International has also received reports of children who have died after being denied or delayed access to medical care.

Children killed by Israeli settlers

Attacks by Israeli settlers against Palestinians in the Occupied Territories have continued during the *intifada*. In most cases the IDF does not intervene sufficiently promptly or vigorously - if at all - to protect Palestinians from settler violence.

On 19 July 2001, **Diya Marwan Tmeizi**, a baby of almost four months from the village of Idna (near Hebron), was killed when the car he was travelling in with his family on their way home from the wedding of relatives, was shot at by Israeli settlers. Two other family members were also killed in the attack, and five were wounded, including two-year-old Amira. The attack happened not far from the Tarqumiya roadblock, but the soldiers manning the roadblock did not stop the killers' car when it fled. The attack was claimed by a group which called itself the Committee for Road Safety which is reportedly linked to the outlawed Jewish right-wing group Kach.

Fourteen-year-old **Nivin Jamjoum** was killed on 28 July 2002 by Israeli settlers who attacked some Palestinian homes in Hebron. She was shot in the head with an M16 rifle by Israeli settlers while standing on the balcony of her home in the al-Shaludi quarter, in the old city of Hebron. Nivin's brother, 20-year-old Marwan, was wounded in the right leg. In total, 11 Palestinians were injured. None of those responsible are known to have been brought to justice.

KILLINGS OF ISRAELI CHILDREN

Seventy two Israeli children have been killed in attacks by armed Palestinians since the beginning of the *intifada*. A high percentage of the victims (some 70%) were killed by suicide bombings and the rest were killed in shooting and other attacks.

In the past 18 months there has been a marked increase in attacks on Israeli civilians, both in Israel and in settlements or roads leading to settlements in the Occupied Territories, and an increasingly high number of victims have been children.

¹² Testimony of Tahani Assad 'Ali on B'Tselem's website: <http://www.btselem.org/>

In the first seven months of 2002 alone, 36 children (17 in the Occupied Territories and 19 in Israel) were killed, the equivalent of the total number of Israeli children killed during the whole of the previous year.¹³ Amnesty International has repeatedly called on Palestinian armed groups to end attacks on civilians, which can never be justified, immediately and unconditionally.¹⁴

Children killed in suicide attacks

On 1 June 2001 a suicide bomber blew himself up among a group of young people waiting to enter the "**Dolphinarium**" night club in Tel Aviv, killing 21 people, 20 of them civilians, where 12 were aged under 18. About 120 others were wounded. This was the bloodiest attack by Palestinian armed groups on Israeli civilians for several years. The '**Izz al-Din al-Qassam Brigades**, the armed wing of the Palestinian Islamist group *Hamas*, claimed responsibility for the attack two days later in a statement faxed to foreign media in which the suicide bomber was named as 20-year-old Said Hutari, originally from Qalqilya, resident in Jordan. The statement expressed pride for the attack and pledged to carry out further attacks. By choosing to target such a place, the entrance to a discothèque on a Friday night, the attacker meant to kill and harm as many civilians as possible and must have anticipated that many children would be among the victims.

Most of the victims who were killed in the attack had immigrated to Israel in recent years from the former Soviet Union. They were: **Raisa Namirovsky** (15), from Netanya and her neighbour and friend **Maria Tagilchev** (14 years), outside whose school a car bomb had exploded two days earlier; **Yevgenia Keren Dorfman**, (15 years), who sustained serious brain damage in the explosion and died after 18 days; **Katherine Kastanada Talker** (15 years) a student from Ramat Gan; 16-year-old **Yulia Nelimov**, whose 18-year-old sister Yelena was also killed; **Irina Nepomneschi**, a 16-year-old business administration student from Bat Yam; **Anyka Kazachkov** and her friend **Mariana Medvedenko**, both aged 16; **Marina Berkovski** from Tel Aviv, who went to the nightclub to celebrate her 17th birthday; and 16-year-old **Aleksei Lupalu**, who had immigrated from Ukraine just six months earlier.

"I looked at them, they were all laughing" recalls the owner of the a kiosk located just 15 meters from the club "the boys were flirting with they girls. They were all in

¹³ A total of 36 Israeli children were killed in 2001 (nine in the Occupied Territories and 27 in Israel) and none were killed in the period of 29 September 2000 until the end of 2000.

¹⁴ Amnesty International, *Israel and the Occupied Territories and the Palestinian Authority: Without distinction: Attacks on civilians by Palestinian armed groups*, July 2002 (AI Index: MDE 02/003/2002).

a good mood, they looked like angels, dressed so nice."¹⁵

Just over two months after the Dolphinarium bombing, another major suicide attack was carried out on 9 August in the **Sbarro Pizzeria**, at a busy intersection in the heart of West Jerusalem. A man walked into the pizzeria during a crowded lunch hour and detonated a powerful bomb packed with nails, killing 14 civilians, including seven children, and injuring more than 100. Both the groups *Islamic Jihad* and *Hamas* claimed responsibility for the attack, which killed: 16-year-old **Michal Raziel** and her 15-year-old long-term friend **Malka Roth**; the two girls had stopped for lunch at the pizzeria on their way to Talpiot, to take part in activities of the youth movement of which they were both members; five members of the Schijveschuurder family, from Neria, were killed in the attack and two others were injured: Tzira and Mordechai Schijveschuurder were killed along with their daughters **Ra'aya** and **Hemda** (ages 14 and two), and their four-year-old son **Avraham Yitzhak**; two other daughters were injured. The family had come to spend the day in Jerusalem, to relax from the tension of the frequent shootings near their home in Neria settlement in the West Bank.

"The last time I was my brother Avraham Yitzhak," recalled Haya Schijveschuurder from her bed in hospital, "he was lying on a stretcher in an ambulance. He had a bandage on his face. He was four years old..."

*"We were hungry, so Mommy said we could go to a restaurant to eat. In that restaurant, you have to pay first and only afterwards you sit down to eat. When we were at the cash register, we suddenly heard an explosion. I ran out as fast as I could. I didn't look at anything. I just ran out. A medic, I don't know his name, took me to an ambulance and that is where I saw Avraham Yitzhak for the last time."*¹⁶

Eight-year-old **Tamara Shimashvili** from Jerusalem was killed with her mother, Lily. Her father was in Moscow at the time of the bombing. Lily and Tamara had arrived in Israel only eight months earlier from Moscow, to join the rest of their family. **Yocheved Shoshan**, aged 10, had gone with her mother and her sisters, Rachel and Michal, to have lunch at the pizzeria. They were seated on the second floor, but Yocheved and Michal had gone back downstairs, where the explosion occurred, to order another slice of pizza. Yocheved was killed instantly in the explosion and Michal was seriously wounded.

¹⁵ Target: Israeli children. Ministry of Education, State of Israel, April 2002.

¹⁶ Target: Israeli children. Ministry of Education, State of Israel, April 2002.

On 16 February 2002, a suicide bomber strapped with nail-studded explosives blew himself up in a pizzeria in the **shopping mall of Karnei Shomron**, an Israeli settlement in the West Bank, killing three teenagers: **Keren Shatzki**, 14, who had gone to the local Yuvalim Mall to meet up with friends and eat pizza; **Nehemia Amar**, 15, had gone to the pizza restaurant with his older brother Moshe; when the bomb detonated, Moshe had just left his brother for a minute; and 16-year-old **Rachel Thaler**, who never recovered from the critical head injury she sustained in the bombing and never regained consciousness until her death on 27 February, 12 days after the attack. The Popular Front for the Liberation of Palestine (PFLP) claimed responsibility for this attack.

Twelve people were killed and more than 50 people were injured by a suicide bomber on the evening of 2 March 2002 near a synagogue in the orthodox **Beit Yisrael neighbourhood** of Jerusalem. The bomb was detonated next to a group of women waiting, with their baby carriages, for their husbands to leave the nearby synagogue following sundown prayers marking the end of the Sabbath. Seven of those killed included two sisters, six-year-old **Shiraz Nehmad** and her two-year-old sister **Liran**, whose parents also died in the attack; their cousins **Lidor and Oriah Ilan**, aged 12 years and 18 months, and **Shaul and Avraham Eliahu Nehmad**, aged 15 and 17. Avraham Eliahu lost an arm and suffered severe internal injuries in the explosion and never regained consciousness. He died of his injuries on 20 June. A seven-month-old baby, **Ya'akov Avraham** was also killed with his mother, 23-year-old Tzofia Eliahu. They lived in the Beit Yisrael neighbourhood and on Saturday, Tzofia went with her two children, two-year-old Shira and the baby Ya'akov, to the home of her sister, who lived nearby and they went for a walk.

*"When we came back Ya'akov started crying, and Tzofia lifted him from the baby carriage," her sister Livnat said. Livnat continued walking with Shira and the carriage, when the explosion occurred. "I looked back, and I didn't see Tzofia and Ya'akov - I just saw fire."*¹⁷

The *al-Aqsa* Martyrs Brigade claimed responsibility for the attack.

Children killed in other attacks

Israeli children have been killed in targeted shootings or as a result of other attacks on civilian targets such as private houses, cars or public buses.

Shalhevet Pass was 10 months old when she was shot by a Palestinian sniper from a hill opposite the entrance to the Israeli settlement of Avraham Avinu, in Hebron, on 26 March 2001. She was shot in the head as her parents tried to protect her. According to the

¹⁷ <http://www.mfa.gov.il/mfa/go.asp?MFAH01970>

Israeli authorities one of the bullets penetrated the baby's head, passing through the skull and then hitting her father's leg. On 16 August 2002 the IDF announced to the media that it had arrested the man responsible for her killing.

Five-month-old **Yehuda Shoham**, from the Israeli settlement of Shilo in the West Bank, was seriously wounded in the head by a rock thrown by Palestinians through the windscreen of his family's car near his home on 5 June 2001. He suffered severe brain damage and remained unconscious and attached to a respirator in hospital, where he died on 11 June.

Two teenagers, 16-year-old **Shoshana Ben-Yishai** and 14-year-old **Menashe Regev** were both killed on 4 November 2001 when a gunman belonging to Islamic *Jihad* fired at a commuter bus at the French Hill junction in northern Jerusalem. Forty five people were injured in the attack.

Avia Malka, a nine-month-old baby, was killed by two Palestinians who shot and threw grenades at cars and pedestrians in Netanya on 9 March 2002. One other person was killed and about 50 people were injured, several of them seriously. The *al-Aqsa* Martyrs Brigade claimed responsibility for the attack.

On 27 April 2002, three armed men attacked residents of Adora, an Israeli settlement in the West Bank. In the bedroom of one house a gunman killed five-year old **Danielle Shefi** as she hid under a bed, and wounded her mother Shiri, her brothers Uriel, aged four and Eliad, aged two. Elsewhere in the settlement, they also killed three adults. The *Izz-al-Din al-Qassam* Brigades (the military wing of *Hamas*) claimed responsibility for what it described as an "heroic and daring operation."¹⁸

PRINCIPLES PROHIBITING THE TARGETING OF CHILDREN AND OTHER CIVILIANS

A fundamental principle of international humanitarian law is that parties involved in a conflict must at all times distinguish between civilians (and therefore children) and combatants, and between civilian objects and military objectives. It is not permitted to target civilians, that is people who are not members of the armed forces of either side. This principle, known as the principle of distinction, is a fundamental rule of customary

¹⁸ Palestine Information Centre Website, BBC, "Hamas military wing claims responsibility for West Bank settlement attack", 28 April 2002; the Popular Front for the Liberation of Palestine reportedly also claimed responsibility, "Adura attack kills four, wounds seven", *Ha'aretz* 28 April 2002.

international humanitarian law, binding on all parties to armed conflicts, whether international or non-international.¹⁹

Amnesty International condemns unreservedly all attacks on children, as on all civilians, whatever the cause for which the perpetrators are fighting, whatever justification they may give for their actions. Targeting civilians of whatever age and being reckless as to their fate is contrary to fundamental principles of humanity which should apply in all circumstances at all times.

Israel's obligations as an occupying power

The rules of an occupying power are laid down in the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949, to which Israel is a High Contracting Party. Palestinian children, like all residents of the Occupied Territories, benefit from the protection of the Fourth Geneva Convention and are "protected persons".²⁰

Even though Israel has in the past rejected the applicability of the Fourth Geneva Convention to the Occupied Territories (the West Bank, including East Jerusalem and the Gaza Strip), according to the International Committee of the Red Cross (ICRC), the UN, and the international community in general, the Fourth Geneva Convention fully applies to the Occupied Territories and the Palestinians are a protected population under the terms of the Convention.

Israel has equal obligations to protect human rights, including the right to life, under the terms of major UN human rights treaties which it has ratified and which it is obliged to uphold. These include the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC).

Other human rights standards binding on members of the UN that are particularly relevant for the Israeli government's treatment of Palestinian children in this context are the UN Code of Conduct for Law Enforcement Officials (Code of Conduct) and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Basic Principles).

¹⁹ The Principle of Distinction is codified in the four Geneva Conventions of 1949 and their two Additional Protocols of 1977.

²⁰ Under the Fourth Geneva Convention Palestinians may not be killed, tortured, ill-treated or suffer humiliating and degrading treatment. They may not be deported. Their property may not be destroyed unless "rendered absolutely necessary by military operations". Collective punishment and reprisals are prohibited.

Many killings of Palestinian children have been the result of excessive and totally disproportionate use of force by the IDF. Article 2 of the UN Code of Conduct for Law Enforcement Officials states that:

"In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons. Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty."

Article 3 of the Code of Conduct clarifies that the use of firearms is considered as an extreme measure and states specifically that *every effort should be made to exclude the use of firearms, especially against children.*

Israeli regulations on the use of firearms before the current *intifada* began in 2000 allowed the use of non-lethal firearms to disperse demonstrations or to arrest suspects. Prior to the *intifada* Israeli soldiers responded to Palestinian children who demonstrated and often threw stones by frequently shooting at them with rubber-coated metal bullets. These bullets are lethal, especially at short range; they consist of a heavy metal core coated with a thin layer of hard rubber or plastic and have considerable penetrative power.

According to the IDF's own regulations, they are not intended to be used at close range, should only be fired at the lower extremities, and it is explicitly prohibited to use them against children. However, the IDF has regularly used such bullets against child demonstrators at distances considerably closer than the minimum permitted range of 40 metres and the pattern of injury indicates that IDF practice has not been to aim at the legs of demonstrators, as the majority of injuries suffered by children from rubber-coated bullets are to the upper body and head.

It is not clear what the current regulations on the use of firearms are, as the Israeli authorities have refused to disclose them since shortly after the beginning of the *intifada*.²¹ The pattern of injury sustained by Palestinian children and others shows that immediately from the first days of the *intifada* the IDF used live ammunition as well as rubber-coated metal bullets, and that they sharply increased the use of live ammunition very quickly. The UN Relief and Works Agency (UNRWA) also charted a steady rise in injuries from live fire since 1 October 2000, three days after the start of the Palestinian uprising, and a parallel decline in the use of rubber-coated bullets.

²¹ See *Israel and the Occupied Territories: State Assassinations and Other Unlawful Killings*, February 2001 (AI Index: MDE 15/005/2001), pages 23-25.

It is not clear what instructions, if any, have been given to IDF soldiers about the targeting of children. However, the large number of children killed and injured by the IDF throughout the Occupied Territories in the past two years and the fact that most children killed or injured were hit in the head or upper body shows that in their use of firearms against Palestinian children, the IDF have consistently breached international standards regulating the use of force and firearms.²²

Obligations of Palestinian Armed Groups and of the Palestinian Authority (PA)

The United Nations General Assembly has recognized the legitimacy of the struggle of peoples against colonial and alien domination or foreign occupation in the exercise of their right to self-determination and independence.²³ However, as mentioned above, international law sets out standards of humane conduct applicable to both state forces and armed groups and requires the use of force to be in accordance with certain basic principles that apply in all situations. In the words of the ICRC, the most authoritative interpreter of international humanitarian law, "whenever armed force is used the choice of means and methods is not unlimited."

Therefore, the assertion made by Palestinian armed groups that international law imposes no constraints on the means used to fight occupying powers runs counter to one of the most basic rules of international humanitarian law.²⁴

In their attacks Palestinian armed groups make no distinction between military objectives and civilians, including children. Their stated reasons for targeting Israeli civilians include: that they do not have other means to fight an occupying power who has one of the most sophisticated and powerful armies in the world;²⁵ that religion and

²² Principle 9 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states:

"Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional use of firearms may only be made when strictly unavoidable in order to protect life."

²³ See, for example, UN General Assembly Resolution 44/29 of 4 December 1989.

²⁴ For a more comprehensive analysis see *Without Distinction: Attacks on civilians by Palestinian armed groups*, July 2002 (AI Index: MDE 02/003/2002).

²⁵ Leading figures of Palestinian political groups whose armed factions carry out attacks against Israeli civilians have argued, including in meetings with Amnesty International delegates, that if Palestinians had F16 fighter jets, tanks and other equipment which the IDF uses against the Palestinians, they would fight a "clean war" and would not need to resort to certain methods which they use at present.

international law permit the use of any means in resistance to occupation; that they are retaliating against Israel for killing members of armed groups and Palestinians generally; that indiscriminate attacks or attacks against civilians is the only way they can make an impact upon a far more powerful adversary; that Israelis generally or settlers in particular are not civilians.

However, no violations by the Israeli army, no matter their scale or gravity, can ever justify the targeting and killing of Israeli children or any other civilians by Palestinian groups. The prohibition on targeting civilians is absolute and the obligation to respect this principle cannot be set aside because Israel has failed to respect its obligations.

Even though there is no Palestinian state, the PA also has an obligation to abide by the above-mentioned principles to protect civilians. Their ability to exercise control over the armed groups has been hampered by the systematic destruction by the IDF of the PA's security installations and by the restrictions imposed by Israel on movements and activities; however, this does not lessen in any way the obligation of the PA to exert every effort and take concrete measures to prevent Palestinian armed groups and members of their security forces from carrying out attacks against Israeli civilians in the Occupied Territories and in Israel.

The obligation to protect the rights of all children

The notion of special childhood rights derives from the universal recognition that children, by reason of their physical and emotional immaturity, are dependent on their family and community and, more widely, on adult structures of political and economic power to safeguard their well-being.

International standards guarantee children protection from all forms of violence, whatever the reason, whoever the perpetrator. The UN Convention on the Rights of the Child (CRC) provides a comprehensive reference point for children's rights in a broad range of situations.²⁶

The State of Israel ratified the CRC in 1991, and as such is bound to respect and ensure the rights set forth in the Convention to each child within its jurisdiction without

²⁶ One of the guiding principles of the CRC is that the "best interests of the child" should be a primary consideration in all decision and procedures related to the child (Article 3), and States Parties recognize that every child has the inherent right to life and are obliged to ensure to the maximum extent possible the child's survival and development (Article 6).

discrimination of any kind.²⁷ Hence, Israel has the obligation to extend Palestinian children the same rights and protection as Israeli children. However, in practice the Israeli authorities do not respect this obligation. Not only are Palestinian children from the Occupied Territories not afforded the same degree of protection as Israeli children, but they are actually subjected to grave violations by the IDF and other Israeli security forces. In its report to the UN Committee on the Rights of the Child²⁸ the Israeli government did not include information on the situation of Palestinian children in the Occupied Territories.²⁹

Since there is no Palestinian State, the PA has not ratified the CRC, but has repeatedly stated its commitment to implementing the provisions of this Convention.³⁰ In any case, regardless of such stated commitment, the PA have an obligation to comply with the above-mentioned provisions of international law and to take the necessary measures to ensure the respect and protection of children and other civilians.

Impunity as a contributing factor to encouraging the killing of children

The pattern of killing of children which has become so entrenched and widespread in the past two years developed against a background of impunity for the perpetrators of such crimes over many years prior to the current *intifada*. Between 1987 and 2000, the 13 years which preceded the start of the current *intifada* some 280 Palestinian children were killed, most of them by the IDF and some by Israeli settlers, in the Occupied Territories. In the same period 18 Israeli children were killed by Palestinians, most of them in Israel and some in the Occupied Territories. Invariably those responsible for such crimes were granted impunity.

In the overwhelming majority of cases the Israeli authorities did not conduct adequate investigations and the Israeli soldiers and settlers who were responsible for the

²⁷ According to Article 2 (1) of the CRC, States Parties shall: "Respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status."

²⁸ See the Periodic Report of Israel to the UN Committee on the Rights of the Child of 20 February 2001; Ref: CRC/C/8/Add.44; 27 February 2002.

²⁹ The Israeli government has consistently refused to accept that any of the international human rights treaties it has signed apply to the Occupied Territories.

³⁰ On 5 April 1995, President Yasser Arafat stated that once a state, the PA intended to endorse the CRC. At the Special Session of the UN General Assembly on Children on 9 May 2002, Dr Emile Jarjou'i, Head of the Observer Delegation of Palestine, stated that the PA endorses the CRC and gives high priority to implementing its provisions. He also referred to a draft Palestinian Child's Rights Charter, which incorporates principles of the Convention.

killing of Palestinian children were not brought to trial. Even in the few cases where Israelis were tried for the killing of Palestinian children, the sentences they received were not commensurate with the seriousness of the crime they had committed. For example, in January 2001 the Jerusalem District Court sentenced a 37-year-old Israeli man to six months community service for the killing of an 11-year-old Palestinian child. At the same time, an 18-year-old Palestinian woman was sentenced to six and half years' imprisonment for stabbing and injuring an Israeli settler, an offence she had committed when she was 15 years old.³¹

Palestinians who were responsible for the killing of Israeli children after the establishment of the PA in 1993 also benefited from impunity. In the mid and late 1990s the PA detained hundreds of people, including members and supporters of armed groups such as *Hamas* and *Islamic Jihad*, whose armed wings had been responsible for the killings of Israeli children. However, these detentions were often motivated by political considerations, intended to stifle dissent and opposition to the PA and their policies or to respond to Israeli and international pressure to act against armed groups, rather than by a genuine concern to bring perpetrators of serious crimes to justice.³² Those arrested were often detained without charge or were tried by the State Security Court, in procedures which violated international fair trial standards, but were not prosecuted for the killing of Israeli children or other civilians.

Since the outbreak of the current *intifada* and throughout the past two years the problem of impunity has taken on unprecedented dimensions. Israeli, Palestinian and international human rights organizations who have researched and documented the killings of civilians in general and of children in particular, have all concluded that impunity is a widespread and entrenched problem which contributes to encouraging the perpetrators of these crimes to continue with such practices. Military and police experts who have taken part in Amnesty International's investigations have endorsed this conclusion.

Impunity in the context of the current *intifada*

Israeli government officials and the IDF have told Amnesty International that soldiers use lethal force only when they respond to Palestinian attackers who pose a threat to their lives and only when they can identify with accuracy the source of fire. They stressed that every effort is made to limit civilian casualties through the means and methods used in their

³¹ See AI Press Release: *Impunity for killers of Palestinians*, 24 January 2001 (AI Index: MDE 15/003/2001).

³² See: *Palestinian Authority: Trials at midnight: secret, summary, unfair trials in Gaza*, June 1995 (AI Index: MDE 15/15/95); and *Palestinian Authority: Defying the Rule of Law: Political detainees held without charge or trial*, April 1999 (AI Index: MDE 21/03/99).

response. However, these claims do not reflect the circumstances of the killings of children documented in this and other reports by Amnesty International and other organizations. These claims are also not borne out by the frequent and continuing incidents of reckless shooting by the IDF of children and other civilians witnessed by representatives of Amnesty International and of other organizations.

The heavy toll of children killed and injured and the circumstances in which they were attacked (as described in the previous section) indicates that too often little or no care was taken by the IDF to avoid causing harm to children. Given the high level of IDF intelligence on the Occupied Territories, as claimed by the IDF themselves and as shown by the precision of some of the IDF operations, it would be difficult to contend that those who ordered, planned and approved certain IDF attacks on densely populated residential areas, could not have anticipated that children were being put at risk of death and injury during such operations. The use of tank rounds, aerial bombardments or booby traps in crowded residential areas in the Gaza Strip, one of the most densely populated places in the world, where the majority of the inhabitants are children, carries a very high likelihood of harming civilians, including children. Hence, in such cases, Israeli officials' claims that sufficient care was taken not to hurt children and that civilian casualties occurred by mistake appear disingenuous - all the more so when the same pattern of "mistake" occurs repeatedly and when the incidents which resulted in the killing of children have not been investigated.

No judicial investigation into any of the cases of killings of Palestinian children by the IDF in the Occupied Territories is known to have been carried out. In some of the cases Israeli government officials stated publicly that an investigation would be carried out. This was notably so for cases which attracted a lot of international interest, such as the cases of Iman Hijju, Hikmat al-Malalha, the Istal brothers, or the Gaza bombing - detailed on pages 7, 10, and 5. However, even in the cases where such commitments were made, eyewitnesses, or people who were injured with the victims and who could have provided valuable information to any inquiry about the incident have not been interviewed or even contacted by the Israeli authorities several months after the incidents and no judicial investigations are known to have been opened.

Amnesty International has repeatedly raised its concerns with officials from the Israeli government and the IDF at the lack of investigations into killings of children and other civilians and at the impunity afforded to those responsible for such crimes. In their responses, Israeli officials have consistently contended that no investigations are necessary in the current situation of armed conflict. In a meeting with Amnesty International delegates on 16 January 2001, the Head of the Legal Department of the IDF, said that "No army carries out investigations in warfare". In another meeting with IDF representatives on 14 May 2002, Amnesty International delegates were told "I don't need to investigate. We

made mistakes that caused casualties on both sides but no Palestinian was killed deliberately". On 5 August 2002, the Deputy Director of the Human Rights Division in the Israeli Foreign Ministry told Amnesty International delegates that "in an armed struggle investigations are not opened unless it is suspected that something is wrong... usually investigations are not opened unless it is known that it was deliberate".

The Israeli authorities' assertion that in a situation of armed conflict investigations into killings of civilians are not necessary runs counter to Israel's obligations according to international human rights treaties to which Israel is a State Party - and which include articles which cannot be derogated from, even "in time of public emergency which threatens the life of the nation".³³

The Israeli authorities' insistence that investigations are not necessary - after more than 250 children, and hundreds of other civilians, have been killed by the IDF in less than two years - and the fact that those who have killed children, whether in stone-throwing incidents or demonstrations, reckless shooting, or shelling or bombardments of residential areas, have not been brought to justice, has undoubtedly contributed to the readiness of Israeli soldiers to resort to the unlawful and excessive use of lethal force.

Armed Palestinian groups, for their part, do not seek to hide the fact that they target civilians, including children, and generally claim responsibility for their attacks. In many cases, including in most of the attacks which killed a large number of children, the perpetrators of the attacks killed themselves (in suicide attacks) or were killed by the IDF during or shortly after the attack. In other cases those who carried out the attacks managed to escape. Some were reportedly subsequently killed or arrested by Israeli security forces and others are still at large.

There has been a consistent failure on the part of the PA to take the necessary steps to arrest those responsible for killing Israeli children and other civilians. The PA have repeatedly claimed that the operational capacity of their security forces has been greatly impaired by the IDF's systematic bombing and destruction of their headquarters and installations, the targeting of its security personnel, and the restrictions imposed on their movements.³⁴ They have also argued that if the Israeli security forces, who have superior intelligence and equipment and have total freedom of movement, cannot locate and arrest wanted Palestinians it is unreasonable to expect the Palestinian security forces to be able to

³³ Article 4(1) of the ICCPR. These non-derogable articles include the right to life.

³⁴ Since the beginning of the *intifada* the IDF has routinely bombed, shelled or otherwise attacked PA security installations, as well as other PA buildings, such as the headquarters of President Arafat, various Ministries, the airport, and other structures. In January 2002, the European Union (EU) stated that Israel had destroyed 18 million US\$ worth of EU-funded projects in the Occupied Territories.

do so.³⁵

In response to increased Israeli and international pressure, the PA has claimed that it "has exerted a 100 percent effort ... to prevent terrorist operations" and refers to having "arrested hundreds of individuals suspected of violating the ceasefire," banning paramilitary organizations and prohibiting financial transfer to them.

It is not possible to establish with certainty to what extent the persistence and increase in attacks against civilians by armed groups based in areas under the jurisdiction of the PA is due to the weakening of the PA security structures by IDF attacks on Palestinian security installations and detention centres, to collusion or inaction by Palestinian officials and security forces members sympathetic to the armed groups, or to the high level of popular support enjoyed by these armed groups. The available evidence indicates that each of these factors is a contributing element to the escalation of the situation in the areas under the PA's jurisdiction and to the prevailing atmosphere of impunity.

Whatever the impact these factors may have had on the PA's capability of ensuring respect for the rule of law in the areas under their jurisdiction, it does not diminish the PA's obligation to take concrete measures to prevent attacks by Palestinian groups against Israeli children and other civilians, to conduct thorough and impartial investigations into these attacks, and to bring those responsible to justice according to international standards for fair trials.

IMPACT OF OTHER PATTERNS OF ABUSES AGAINST CHILDREN

This report focuses on the killing of children, as the ultimate and irremediable form of abuse, but it is important to note that the situation which has developed in the past two years in Israel and the Occupied Territories has had a far-reaching and negative impact on the lives of Palestinian and Israeli children.

For every child killed, many more have been wounded, maimed or disabled. Since the beginning of the *intifada* until the end of August 2002, some 7000 Palestinian children were injured in attacks by the IDF and Israeli settlers and hundreds of Israeli children were injured by armed Palestinians. Palestinian and Israeli children who have survived or witnessed explosions or other attacks, including some in which their relatives or friends

³⁵ Since the autumn of 2001 the IDF have been carrying out regular incursions into PA-controlled areas and have re-occupied many of these areas and arrested thousands of people.

were killed or injured, have been traumatized in such a way that they may never recover. In the Occupied Territories Palestinian children have frequently been exposed to life-threatening situations, as the IDF routinely use F16 fighter jets, Apache helicopters, tanks and armoured personnel carriers to bomb and shell densely populated refugee camps and other civilian areas. Israeli children living in settlements in the Occupied Territories have been exposed to the dangers of mortar and shooting attacks by Palestinian armed groups on settlements and on roads leading to settlements.

Scores of Palestinian children have also been arrested by the IDF, held incommunicado without access to their families and subjected to torture or ill-treatment, and thousands have had their homes demolished by the IDF. The closures, curfews and other restrictions on the movement of people and goods imposed by the IDF on Palestinian towns and villages throughout the Occupied Territories have also had a grave impact on the daily lives of hundreds of thousands of Palestinian children, curtailing their access to education and medical care.³⁶ These measures have resulted in a sharp loss of income in virtually every Palestinian home and food shortages which have resulted in an increase in malnutrition, anaemia and other illnesses.³⁷

CONCLUSIONS AND RECOMMENDATIONS

The cases presented in this report are only a sample of the hundreds of documented cases of killings of Palestinian children by the IDF and of Israeli children killed by Palestinian armed groups. They illustrate a pattern of increasing disregard by all the parties involved in the conflict for the right to life of the most vulnerable members of the Israeli and Palestinian civilian population.

Respect for human life must be restored. Only a new mindset among Israelis and Palestinians can prevent the killing of more children -- a mindset that values each child's life, whereby all those involved in the conflict behave according to the fundamental principles of humanity enshrined in international law.

³⁶ For example, during IDF incursions into Palestinian residential areas in March and April 2002 many UNRWA and other schools were fired on, occupied, vandalized and used as detention centres. During their occupation of the Ministry of Education in Ramallah in April 2002 the IDF systematically damaged computers and filing systems containing teachers' and school children's records.

³⁷ On 15 November 2001, the chief of the UNICEF office in the West Bank and Gaza expressed concern over the impact of the prolonged conflict between Palestinians and Israelis. See: <http://www.unicef.org/>

Amnesty International calls:

On the Israeli government:

- To honour its commitment as a state party to major international human rights treaties, including the CRC and the ICCPR to respect the right to life of all children and to act in their best interest.
- To order its armed forces to respect international human rights standards governing the use of force and firearms, not to resort to the lethal use of firearms unless it is strictly unavoidable in order to protect life and when less extreme means are insufficient, and to make every effort, in accordance with international standards, to exclude the use of firearms, especially against children.
- To take prompt and concrete measures to put an end to reckless, random and disproportionate fire by the IDF at residential areas and to ensure that IDF operations are not carried out in a manner that recklessly puts children and other civilians at risk of death and injury.
- To ensure that thorough and impartial investigations are promptly carried out into the killing of every child by the IDF or by Israeli settlers, that the findings of these investigations are made public and that those responsible for such unlawful attacks are brought to justice in fair trials.
- To allow the UN Special Rapporteur on extrajudicial, summary or arbitrary executions to visit Israel and the Occupied Territories.
- To ensure that its security forces also take prompt and effective action whenever Palestinians are attacked by Israeli settlers in the Occupied Territories.
- To ensure that children throughout the Occupied Territories are allowed prompt and unhindered access to medical care.

On the Palestinian Authority (PA):

- To honour its stated commitment to abide by international human rights treaties, including the CRC and the ICCPR.
- To exercise all possible efforts to take effective action in order to prevent anyone under its jurisdiction from attacking or otherwise endangering the safety of children or any other civilians.
- To ensure that thorough and impartial investigations are promptly carried out into the killing by Palestinians of every child, that the findings of these investigations are made public and that those who commit, order or assist in such unlawful attacks are brought to justice in fair trials.
- To use every opportunity they have to address Palestinian public opinion, notably via the Palestinian and Arab audiovisual and other media, to condemn in unequivocal terms the killings by Palestinians of children or any other civilian in Israel or in the Occupied Territories and to reiterate its commitment to enforcing the provisions of international law concerning the absolute prohibition of attacks on civilians and especially children.

On Palestinian armed groups:

- To put an immediate end to the targeting of children or any other civilians in Israel and in the Occupied Territories.

On the leadership of all Palestinian armed groups:

- To publicly and unequivocally condemn all attacks on children and other civilians.
- To instruct all those under their command or influence not to attack children or other civilians under any circumstances and make clear that such attacks will not be tolerated.

Amnesty International also calls on:

- The international community to take every opportunity to urge the Israeli government and the PA to act in the best interests of all children, in particular to respect children's right to life.
- States who provide military equipment, including spare parts for military equipment, to Israel to demand effective and enforceable guarantees that such equipment will not be used by the IDF in a manner that leads to the unlawful killing of children or other civilians.
- States who provide military equipment, including spare parts, to the PA to demand that they give clear orders and exercise control to ensure that weapons are not used in carrying out unlawful killings of children and other civilians.
- All states to prevent any military assistance to Palestinian armed groups that contributes to attacks on children and other civilians

Amnesty International also reiterates its call on the international community to take concrete action with a view to sending international monitors to Israel and the Occupied Territories and to work resolutely to persuade the Israeli government to accept the presence of international observers. The organization believes that if international observers had been sent to Israel and the Occupied Territories when it first called for them in October 2000, their presence may have saved the lives of Israeli and Palestinian children and other civilians.

