

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	533
Land:	Gaza-Vestbredden
Kilde:	Amnesty International
Titel:	'They were just kids'. Evidence of war crimes during Israel's August 2022 Gaza offensive
Udgivet:	oktober 2022
Optaget på baggrundsmaterialet:	14. december 2022



‘THEY WERE JUST KIDS’

EVIDENCE OF WAR CRIMES DURING ISRAEL’S
AUGUST 2022 GAZA OFFENSIVE

RESEARCH
BRIEFING

AMNESTY
INTERNATIONAL



CONTENTS

1.	EXECUTIVE SUMMARY	3
2.	METHODOLOGY	4
3.	BACKGROUND	5
4.	IMPACT OF CONFLICT OF CIVILIANS	66
5.	APPARENTLY UNLAWFUL ATTACKS BY ISRAELI FORCES	98
5.1	Killing of Duniana al-Amour	98
5.2	Al-Falluja cemetery attack	1211
6.	APPARENTLY UNLAWFUL ATTACKS BY PALESTINIAN ARMED GROUPS	1514
6.1	Jabalia refugee camp attack	16
7.	CONCLUSION AND RECOMMENDATIONS	18

Cover photo: Palestinian children inspect their damaged building in Gaza City on 9 August 2022 after a ceasefire between Israel and Palestinian armed groups came into force. The shattered building was once home to 17 people, including children, who were given just a 30-minute warning to leave by Israel before devastating air strikes. © Majdi Fathi/NurPhoto via Getty Images

On 5 August 2022, Israel launched a three-day offensive on occupied Gaza, visiting fresh trauma and destruction on a besieged population living under apartheid. Both Israeli forces and Palestinian armed groups committed apparent war crimes. In one attack, an Israeli drone killed five children at a cemetery. In another instance, seven civilians were killed in a strike likely to have been caused by a Palestinian rocket that misfired.

1. EXECUTIVE SUMMARY

On 5 August 2022, Israel launched a military offensive on the occupied Gaza Strip that lasted for three days, ostensibly as a pre-emptive campaign targeting Palestinian Islamic Jihad and its armed wing, the Al-Quds Brigades. In total, 49 Palestinians were killed and at least 360 Palestinians were injured, including 151 children, according to the UN. Amnesty International concluded, based on its research, that 31 civilians were among those killed. Its assessment is that 33 Palestinians, including 17 civilians, were killed by Israeli forces. Of the remaining 16 Palestinians who were killed, Amnesty International concluded that 14 were civilians. In one case, an attack that killed seven of these civilians, Amnesty International gathered sufficient evidence to conclude that it was mostly likely to have been caused by a rocket launched by a Palestinian armed group that misfired. It was unable to conclude which party was responsible for each of the four other attacks that killed the remaining nine civilians. These attacks were followed by the immediate removal of weapons remnants, preventing Amnesty International's researchers from accessing material evidence. This removal matches a pattern identified in past cases where Palestinian rockets misfired.

Based on 42 interviews, extensive fieldwork involving visits to damaged sites in the Gaza Strip, analysis of satellite imagery and other visual evidence, and a review of official statements, media articles and reports by other organizations, Amnesty International has collected and analysed new evidence of unlawful attacks, including possible war crimes, committed by both Israeli forces and Palestinian armed groups, offering a stark reminder of the jarring absence of any serious measure of justice and accountability.

Amnesty International has examined in detail two Israeli attacks that must be investigated as possible war crimes because they appear either to have deliberately targeted civilians or civilian objects or to have been indiscriminate attacks. On 5 August 2022, an Israeli tank round struck the house of the al-Amour family in Khan Yunis, where 11 civilians were staying, killing Duniana al-Amour, aged 22, and wounding her mother and her sister. Based on its identification of the projectile that struck the house as a "highly accurate" 120mm M339 tank round, and its calculation of the distance between the house and the closest military objects using satellite imagery, Amnesty International believes that the al-Amour family's house was the intended target of the attack. The killing of Duniana al-Amour and the apparently deliberate targeting of her house must therefore be investigated as a possible war crime.

In another instance, on 7 August 2022, a missile apparently fired from a drone hit Al-Falluja cemetery in Jabalia, killing five children and seriously injuring another. Based on a review of pictures of the weapon's remnants, Amnesty International determined that they were consistent with an Israeli guided missile. Unnamed sources from the Israeli army told an Israeli newspaper that a preliminary internal probe conducted by the army into the attack showed that neither Palestinian Islamic Jihad nor the Al-Quds Brigades were firing rockets at the time of the attack and that Israel was carrying out attacks on "targets" near the area. Satellite imagery showed that there were no military targets visible in the area 10 days before the attack and residents interviewed by Amnesty International said that none appeared in the intervening period. There are strong indications that the strike on Al-Falluja cemetery was either a direct attack on civilians or an indiscriminate attack where Israel failed to comply with the obligation to take all feasible precautions to distinguish between civilians and fighters.

Amnesty International has also examined one case in which evidence suggests that an attack that killed seven civilians, including four children, and injured 15 others in Jabalia refugee camp on 6 August 2022 was likely to have been caused by a rocket launched by Palestinian armed groups that misfired. Like other cases in which similar Palestinian rockets are alleged to have caused civilian deaths and injuries, this should be investigated as a possible war crime. Whether they are intended to strike an Israeli civilian area or a military objective, this type of unguided rocket is inherently inaccurate and therefore its use in areas populated with civilians is indiscriminate and violates international humanitarian law.

The violations documented by Amnesty International fit into a wider pattern of unlawful attacks in Gaza that have been perpetrated in the context of an ongoing 15-year-old illegal blockade – a key tool through which Israel enforces its apartheid system to segregate, fragment, oppress and dominate Palestinians for the benefit of Israel's Jewish population.

Amnesty International calls on the Office of the Prosecutor of the International Criminal Court (ICC) to urgently investigate any apparent war crimes committed during the August 2022 offensive and to consider the applicability of the crime against humanity of apartheid within its current formal investigation. Palestinian and Israeli authorities must cooperate with the ICC investigation and grant independent human rights investigators free, unrestricted access to witnesses and forensic evidence.

The international community must also address other root causes of recurring violations, and press Israel to immediately lift its blockade and end its arbitrary restrictions that amount to collective punishment. In this context, Amnesty International is also renewing its call on the UN Security Council to impose an arms embargo on Israel and Palestinian armed groups.

2. METHODOLOGY

Amnesty International conducted research between 9 August and 2 September 2022 into alleged violations of international humanitarian law by Israeli forces and Palestinian armed groups during Israel's August 2022 offensive on the Gaza Strip.

In light of the fact that the Israeli authorities have denied Amnesty International access to Gaza since 2012, the organization contracted a fieldworker based in Gaza to undertake preliminary research on the ground. The fieldworker visited 17 sites that were the object of deadly attacks during the period of Israel's offensive between 5 and 7 August 2022, conducting more than one visit to seven of them, as well as visiting Al-Shifa hospital in Gaza City, the largest medical facility in the Gaza Strip. The 17 sites represented all locations where Amnesty International's desk research during and after the offensive had documented at least one potential civilian death and/or extensive damage to civilian property. The fieldworker took photographs of the sites, as well as of remnants of weapons and munitions where they were present.

Amnesty International researchers analysed the testimonies obtained through the fieldworker's interviews, conducted follow-up interviews with some of them remotely over the phone and checked statements provided by the interviewees for accuracy against visual evidence verified by the organization's Evidence Lab, medical reports produced by doctors in the Gaza Strip who had examined the bodies of individuals killed or wounded in attacks on the sites, information collected by Palestinian, Israeli and other international human rights organizations, and media reports.

In total, Amnesty International interviewed 42 individuals, including survivors of attacks on the 17 sites, family members of those killed or wounded in them, witnesses to them, and doctors and paramedics who treated individuals wounded in them or examined the bodies of people killed in them.

Amnesty International's weapons expert and Evidence Lab analysed the photographs of the sites visited and of the remnants of weapons and munitions present to identify evidence of possible violations and the actors likely to have been responsible. The Evidence Lab also collected and analysed satellite imagery of three of the sites visited, as well as open-source videos and photographs recording attacks on the sites or their aftermath.

In addition, Amnesty International reviewed official statements made by the Israeli military to determine the intended target of attacks that it admitted carrying out. It also examined footage published and circulated by the Israeli army's spokesperson unit, on the one hand, and by Palestinian armed groups, on the other.

Amnesty International conducted its own assessments of the number of casualties during the period of the offensive, including the breakdown of fatalities between civilians and fighters, and of the party likely to have been responsible for the attacks that caused them. It reviewed reports by the UN Office for the Coordination of Humanitarian Affairs (OCHA), Israeli and Palestinian media reports, and official statements by Palestinian armed groups. It then analysed the information it had collected through interviews and cross-checked this with unpublished information shared by the Israeli human rights organization B'Tselem (Israeli Information Center for Human Rights in the Occupied Territories).

This research briefing focuses primarily on three deadly attacks at three of the 17 sites visited by the fieldworker Amnesty International contracted. In each of these three cases, the organization considered that it had sufficient evidence to assess the lawfulness of the attack. Amnesty International has not included information on other attacks as it did not manage to obtain a threshold level of evidence necessary to make such an assessment. In some cases involving deadly Israeli attacks, it was unable to ascertain the distance between civilians killed or wounded and fighters or other military objectives that may have been the target of Israeli forces, preventing it from determining whether they violated the principles of proportionality and distinction under international humanitarian law. In other cases involving deaths of and injuries to civilians as a possible result of weapons launched by Palestinian armed groups that misfired, it was unable to obtain sufficient information from both witnesses and complementary sources, such as video footage and media reports.

Amnesty International wrote to the Israeli authorities and Palestinian Islamic Jihad on 30 September 2022 to provide them with a summary of its key findings about possible violations of international humanitarian law committed by their forces and to request comments on them. It had not received a response from either by the time of publication. Amnesty International also wrote to Gaza's Prosecutor General raising concern at the removal from attack locations of remnants of weapons to prevent their identification, and to request information about any investigation into the attack on the Jabalia camp on 6 August and four attacks where it was not able to establish responsibility for the killing of civilians. Gaza's Prosecutor General responded to say that authorities in Gaza were investigating all cases of violations that occurred during the conflict, but did not mention the attack on the Jabalia camp specifically, or provide any details on the progress of the investigation.

3. BACKGROUND

Since June 2007, Israeli authorities have imposed an illegal land, sea and air blockade on the occupied Gaza Strip, effectively controlling the Strip and its 2 million inhabitants, whose lives have come to be dictated by the blockade and its associated restrictions. For 15 years, the blockade has deprived Gaza's Palestinians of their most basic rights, freedoms and essential services, drastically increasing unemployment and poverty, curtailing the freedom of movement of people and goods, denying patients access to life-saving treatment outside Gaza, and leaving Gaza's healthcare system, economy and infrastructure on the brink of collapse. The open-ended, arbitrary and draconian measures the blockade entails amount to collective punishment, prohibited under international humanitarian law, and disproportionately affect sectors of Gaza's population such as those seeking to

reunite with their families in the occupied West Bank, cancer patients, people with disabilities, and an entire generation of youth subjected to perpetual precarity.¹

The blockade is a key tool through which Israel enforces its apartheid system to segregate, dominate, oppress and fragment Palestinians for the benefit of Israel's Jewish population.² It maintains it by serious violations of human rights such as unlawful killings and infliction of serious injuries, which Amnesty International has found to constitute the crime against humanity of apartheid.³

For over a year and a half, between 30 March 2018 and 27 December 2019, protesters in Gaza held weekly marches towards the border fence to demand Israel lift its illegal blockade and allow Palestinian refugees to return to land they were displaced from more than 70 years ago. Israeli forces responded with excessive force and utter disregard for civilian lives using live ammunition against protesters who did not pose an imminent threat, killing at least 214 Palestinians, including 46 children, and injuring over 36,100 including some 8,000 children.⁴ The high number of injuries caused by live ammunition to lower limbs, which resulted in scores of amputations, suggests that Israel pursued a "deliberate strategy to maim civilians".⁵

In addition, since 2008, Israel has launched four large-scale offensives against the Gaza Strip, killing at least 2,700 Palestinian civilians, injuring and displacing tens of thousands of others, and causing widespread destruction to civilian property and infrastructure.⁶ Their cumulative effect has aggravated the humanitarian crisis caused by the blockade and denied the population any possibility of recovering from the material or the psychological effects of any one of these attacks, subjecting them to a life of constant fear, trauma and uncertainty.

Meanwhile, since 2008, Palestinian armed groups have fired thousands of indiscriminate rockets towards cities and towns in Israel, killing dozens of civilians and injuring hundreds of others.⁷

Israel has benefited from impunity for the apparent war crimes and crimes against humanity it committed during the four offensives, the deadly repression of protests against the blockade, the blockade itself, which may amount to a crime against humanity, and Israel's overall cruel and institutionalized regime of domination and oppression against the entirety of the Palestinian people, which amounts to the crime of apartheid. Palestinian armed groups have also evaded accountability for apparent war crimes they have committed. Amnesty International is concerned that the international community's failure to hold Israel accountable for its crimes under international law is contributing to the entrenchment of this impunity.

4. IMPACT OF CONFLICT ON CIVILIANS

On 5 August 2022, Israel launched a military offensive on the occupied Gaza Strip that lasted for three days, ostensibly as a pre-emptive campaign targeting Palestinian Islamic Jihad and its armed wing, the Al-Quds Brigades. The offensive followed the arrest by Israeli forces of Bassam al-Sa'adi, a senior member of Palestinian Islamic Jihad, during a raid on Jenin refugee camp in the occupied West Bank on 1 August and the Israeli authorities' closure of all crossings into the occupied Gaza Strip that same day.⁸

¹ See Amnesty International, "Gaza: Looming humanitarian catastrophe highlights need to lift Israel's 10-year illegal blockade", 14 June 2017, <https://bit.ly/3fOSTY0>

² Amnesty International, *Israel's Apartheid against Palestinians: Cruel System of Domination and Crime against Humanity* (Index: MDE 15/5141/2022), [amnesty.org/en/documents/mde15/5141/2022/en](https://www.amnesty.org/en/documents/mde15/5141/2022/en), p. 171.

³ Amnesty International, *Israel's Apartheid against Palestinians* (previously cited), p. 258.

⁴ UN, "Two Years On: People Injured and Traumatized During the 'Great March of Return' are Still Struggling", 6 April 2020, <https://bit.ly/3UlcLFJ>

⁵ Amnesty International, "One year on from protests, Gaza civilians' devastating injuries highlight urgent need for arms embargo on Israel", 28 March 2019, <https://bit.ly/3xBI7z>

⁶ Amnesty International, *Israel's Apartheid against Palestinians* (previously cited), p. 42.

⁷ UN Office for the Coordination of Humanitarian Affairs (OCHA), Data on casualties, ochaopt.org/data/casualties

⁸ Reuters, "Israel extends Gaza crossing shutdown over retaliation fear", 4 August 2022, <https://reut.rs/3dif7V8>

In response to this offensive, the Al-Quds Brigades launched what it called the “Unity of Squares” military operation and was joined by smaller Palestinian armed groups, including the Popular Resistance Committees, the Al-Aqsa Martyrs Brigades, the National Resistance Brigades, the Abu Ali Mustafa Brigades and the Mujahidin Brigades.⁹ The Israeli army said it carried out 170 attacks, while Palestinian armed groups fired nearly 1,100 rockets, most of which were intercepted by the Iron Dome, an Israeli air defence system.¹⁰

In total, 49 Palestinians were killed during the conflict, according to the UN.¹¹ Of these, 31 were civilians, including 17 children, four women and 10 men, according to research by Amnesty International.¹²

Of the 49 Palestinians killed, Amnesty International concluded that 33 were definitely killed by Israeli forces, with the vast majority (32 people) dying as a result of air strikes and one person as a result of a tank round. Its assessment was that 17 were Palestinian civilians, including eight children (Alaa Qaddoum, Layan al-Sha’er, Muhammad Hassouna, Jamil Najmaddin Nejem, Jamil Ihab Nejem, Nadhmi Abu Karsh, Hamed Haidar Nejem and Muhammad Salah Nejem), three women (Duniana al-Amour, Hanaa al-Khalidi and Alaa Tahrawi) and six men (Ibrahim Abu Salah, Ismail Dweik, Shadi Kheil, Mahmoud Daoud, Khaled Yassin and Abdul-Rahman al-Silik).

Of the remaining 16 Palestinians who were killed, Amnesty International concluded that 14 were civilians: nine children (Momen al-Neirab, Hazem Salem, Ahmad al-Neirab, Haneen Abu Qaidah, Fatimah Obeid, Dalia Nabaheen, Muhammad Nabaheen, Ahmad Nabaheen and Ahmad Farram), one woman (Naamah Abu Qaidah) and four men (Khalil Abu Hamada, Muhammad Zaqqout, Nafeth Khatib and Diyaa al-Burie).

In one case, an attack on Jabalia refugee camp on 6 August 2022 that killed seven of these civilians (Momen al-Neirab, Hazem Salem, Ahmad al-Neirab, Khalil Abu Hamada, Muhammad Zaqqout, Ahmad Farram and Nafeth al-Khatib), Amnesty International gathered sufficient evidence to conclude that it was mostly likely to have been caused by a rocket launched by a Palestinian armed group that misfired.¹³

⁹ Al-Quds al-Arabi, *سرايا القدس تطلق عملية وحدة الساحات ردا على الغارات الإسرائيلية*, 6 August 2022, <https://bit.ly/3QMZGC7>

¹⁰ IDF, *עלות השחר: יומן המבצע*, 8 August 2022, <https://bit.ly/3UghCrD>

¹¹ OCHA, “Protection of civilians report: 2-15 August 2022”, 19 August 2022, <https://bit.ly/3R3Wtyp>

¹² Amnesty International’s figure for the number of civilian deaths is higher than OCHA’s. It is based on an analysis of not only OCHA’s data, but also information it collected through interviews conducted in Gaza and remotely, as well as Israeli and Palestinian media reports, and official statements by Palestinian armed groups. For example, following the ceasefire, the Al-Quds Brigades published the names of 12 of its fighters who were killed during the offensive (Al-Quds Brigades, *وحدة الساحات البطولية*, *سرايا القدس ترف ثلاثة من قادتها ومجاهديها ارتقوا خلال معركة "وحدة الساحات" البطولية*, 8 August 2022, <https://bit.ly/3BiU4tL>). It also cross-checked its analysis with unpublished information shared by B’Tselem.

¹³ See details in section 6.2 “Jabalia refugee camp attack”.

It was unable to conclude which party was responsible for each of the four other attacks that killed the remaining seven civilians. One was a strike on a car in Izbat Beit Hanun at 2pm on 6 August 2022 that killed two of its occupants, Naamah Abu Qaidah, aged 60, and her granddaughter Haneen Abu Qaidah, aged 11. The car was due to take them to a wedding and was parked just outside the bridegroom's house. One resident who spoke on condition of anonymity to the fieldworker contracted



Members of the Nabaheen family who were killed in the attack on Al-Bureij refugee camp on 7 August 2022: Muhammad, aged 12 (left); Ahmad, aged nine (centre); Dalia, aged 14 (right); and their father, Yasser (behind). © Private

by Amnesty International said that the car had been hit by a mortar. However, Amnesty International had no means of verifying the claim because all remnants of the weapon that hit the car had been removed by the time the fieldworker visited the site and conducted interviews on 10 August 2022.

Another of the attacks hit a house in Al-Bureij refugee camp at around 7pm on 7 August, killing Yasser Nabaheen and three of his children. Dalia Nabaheen, aged 14, was sitting on a swing at her home, and her brothers Muhammad, aged 12, and Ahmad, aged nine, were tending to the plants in the backyard when they were killed, according to their brother Bilal, who was wounded in the same attack. All remnants of the projectile that hit the house had been removed by the time the fieldworker visited the site and conducted interviews on 13 August.

The removal of remnants of weapons in these attacks matches a pattern identified in past cases where Palestinian rockets misfired.

At least 360 Palestinians, including 151

children, were injured during the three-day offensive.¹⁴

In this conflict, rockets launched by Palestinian armed groups did not lead to deaths or serious injuries among Israeli civilians or soldiers.

The conflict's impact on civilian property, which was overwhelmingly though not exclusively due to Israeli air strikes, included the destruction of or partial damage to over 1,700 housing units and led to the internal displacement of some 450 Palestinians.¹⁵

During the three-day offensive, following five days of complete closure of the Erez and Kerem Shalom crossings between Israel and the Gaza Strip, Gaza's sole power station was forced to shut down for two days.¹⁶ This exacerbated the humanitarian crisis which has been caused by the blockade and aggravated by Israel's four large-scale offensives since 2008.

¹⁴ Office of the UN High Commissioner for Human Rights (OHCHR), "Bachelet alarmed by number of Palestinian children killed in latest escalation, urges accountability", 11 August 2022, <https://bit.ly/3eW7TXu>

¹⁵ OCHA, "Escalation in the Gaza Strip and Israel: Flash update #2 as of 18:00", 8 August 2022, <https://bit.ly/3QL7oN3>

¹⁶ OCHA, "Escalation in the Gaza Strip and Israel: Flash update #2 as of 18:00", 8 August 2022, <https://bit.ly/3QL7oN3>

5. APPARENTLY UNLAWFUL ATTACKS BY ISRAELI FORCES

Amnesty International documented two attacks by Israeli forces that may amount to war crimes, because they appear either to have deliberately targeted civilians or civilian objects or to have been indiscriminate. These cases are presented below.

Amnesty International also conducted extensive research into the killings of five-year-old Alaa Qaddoum, who died in an Israeli air strike on Shuja'iya, a neighbourhood of Gaza City, on 5 August 2022, and 11-year-old Layan al-Shaer, who died on 11 August 2022 as a result of wounds sustained in an Israeli air strike on Khan Yunis on 5 August 2022. However, it could not reach a conclusion on the lawfulness of either attack under international law because the visual evidence it was able to gather did not allow it to determine the distance between the civilians and the military objectives targeted in each attack. Both cases require further investigation.

5.1 KILLING OF DUNIANA AL-AMOUR

“We’re on the border and they [Israeli soldiers] know everything about us and know that we have nothing to do with politics, that we’re just simple farmers. Their drones monitor our every move... My sons and I earn our living from selling our harvest.”

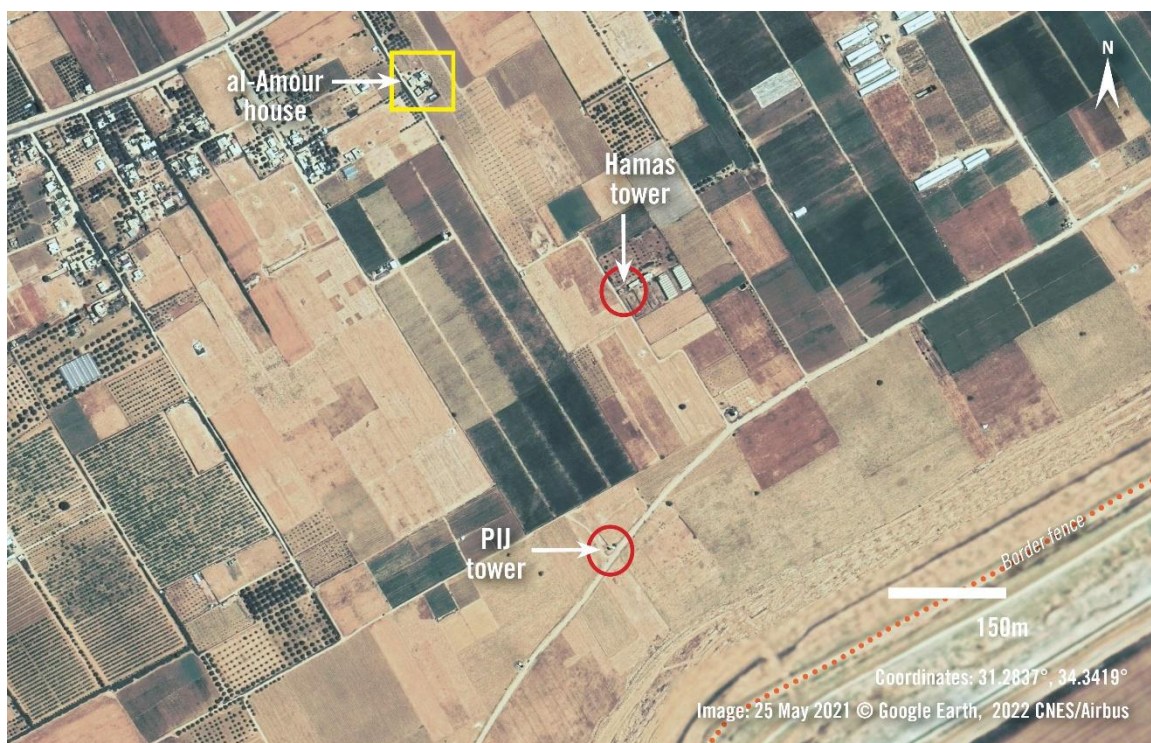
Adnan al-Amour, Duniana’s father.

On 5 August 2022, a projectile hit the home of the al-Amour family in the village of Al-Fukhari, east of Khan Yunis in the southern Gaza Strip, killing Duniana al-Amour, a 22-year-old fine arts student at Al-Aqsa university, and wounding her mother, Farha, and her 25-year-old sister Areej. The fieldworker contracted by Amnesty International interviewed members of the al-Amour family at their home in Al-Fukhari on 18 August, visited the area again on 20 August and took pictures of the damage caused by the shelling.

Located only 1km away from the border fence, Al-Fukhari often bears the brunt of military escalations and Israeli offensives, but Adnan al-Amour, Duniana’s father, told Amnesty International that he could not believe his house had been hit:

“We’re on the border and they [Israeli soldiers] know everything about us and know that we have nothing to do with politics, that we’re just simple farmers. Their drones monitor our every move... My sons and I earn our living from selling our harvest.”

Close to the village, the Al-Quds Brigades, the armed wing of Palestinian Islamic Jihad, and the Izz al-Din al-Qassam Brigades, the armed wing of Hamas, have each installed a watchtower near the border fence. According to an analysis of satellite imagery conducted by Amnesty International’s Evidence Lab, the Al-Quds Brigades’ tower is at a distance of approximately 750m from the al-Amour family’s house, while the Izz al-Din al-Qassam Brigades’ tower is located some 360m from it. Some 20 minutes after the shelling of the al-Amour family’s house, the Al-Quds Brigades’ tower was shelled and completely destroyed by Israeli forces, while the Izz al-Din al-Qassam Brigades’ tower remained untouched. Throughout the three-day offensive, Israeli forces avoided hitting any Hamas facilities or targeting Hamas members; neither Hamas nor the Izz al-Din al-Qassam Brigades participated in this round of fighting.



Satellite imagery captured on 25 May 2021 shows the al-Amour family's house in relation to the watchtowers of the Al-Quds Brigades, the armed wing of Palestinian Islamic Jihad (PIJ), and the Izz al-Din al-Qassam Brigades, the armed wing of Hamas © Google Earth

Adnan al-Amour told the fieldworker contracted by Amnesty International in an interview conducted on 18 August 2022 that he was watering olive trees when he heard the strike: “I had left for the field while my wife and children were drinking tea. I have five daughters and four sons, and they were all at home, in addition to my daughter-in-law. That’s the custom every Friday.” He said that he heard a barrage of shots fired from the border and saw a drone hovering overhead immediately after the shelling.

Asmaa al-Amour, Duniana’s 15-year-old sister, told the fieldworker on 20 August 2022 that she was watching television when the house was struck:

“Suddenly we heard a loud sound and saw stones and sand everywhere. My brother Hammoudeh and I jumped out of the window and my sisters Duniana and Areej [who were wounded by the shell and required treatment] were carried to the corridor [by family members]. Our neighbours called the ambulance, but we waited and waited, and no ambulance came, so my sisters [Duniana and Areej] were transported to the closest hospital to us, the European hospital, in our neighbour’s pickup truck. Duniana had been sitting in her room when the shell hit. It hit her room directly and destroyed it.”

She added: “When we heard the bullets fired from the border, we fled to a nearby house and afterwards we saw that they’d hit the Al-Quds Brigades’ tower and minutes later we heard the afternoon call to prayer.”

Duniana was pronounced dead shortly after she reached the hospital, while her mother, Farha, who was also taken to hospital, and her sister Areej were released on the same day, having sustained light injuries from shrapnel.



Remnant of the 120mm tank round that hit the home of the al-Amour family at about 3.55pm on 5 August 2022 © Amnesty International

Adnan and Asmaa said that their family's house was shelled at about 3.55pm. As such, it would have been the object of Israel's first attack in its latest offensive on Gaza.

Amnesty International's weapons expert analysed photographs that the organization's fieldworker took of remnants of the ordnance that struck the home and identified the projectile as a 120mm M339 tank round, produced by IMI Systems. It is marketed as a "High Explosive Multi-Purpose Tracer tank cartridge" and as delivering a "high hit probability and lethality with low collateral damage".¹⁷ Neither Palestinian Islamic Jihad nor any other Palestinian armed group is in possession of this ammunition and therefore the Israeli army is the only party to the conflict that could have fired it. Pictures of the damage to the home show that the projectile punched a hole in one of its walls.

The circular error probable – a measure of a weapon's precision, defined as the radius of a circle within which one would expect half of its rounds to hit when properly aimed – of the 120mm smoothbore cannon, which fires the M339 tank round, is only 4m.¹⁸ Therefore, it is unlikely that the tank was aiming at the watchtower of either the Al-Quds Brigades or the Izz al-Din al-Qassam Brigades and missed by hundreds of metres.

The weapon's accuracy, the round's penetration of a wall of the al-Amour family's house, the significant distances between the al-Amour family's house and the closest watchtowers (relative to the weapon's precision), and the fact that the Izz al-Din al-Qassam Brigades' tower was not hit or damaged even though it was much closer to the Al-Quds Brigades' tower than the al-Amour family's house lead Amnesty International to believe that Israeli forces deliberately targeted the al-Amour family's house.



Duniana al-Amour's artwork in her bedroom, damaged after a projectile punctured holes in the wall and took her life on 5 August 2022 © Amnesty International

Amnesty International found no evidence that members of the al-Amour family were fighters or could reasonably be believed to be involved in armed combat. The Israeli army's spokespersons did not comment on the shelling of the al-Amour family's house or the attack's intended target. Nor did they suggest that there were fighters inside the house. They circulated a video of the destroyed tower of the Al-Quds Brigades, but made no reference, implicit or explicit, to the attack on the al-Amour family's house.

Consequently, Israel's shelling of the al-Amour family's house may have been a deliberate direct attack on civilians and on a civilian object. Intentionally directing attacks against civilians not taking direct part in hostilities and against civilian objects constitutes a war crime under the Rome Statute of the ICC.

Even if Israeli forces hit the house in the context of targeting Palestinian military sites or equipment in the area or struck it deliberately on the basis of faulty intelligence, they should have carried out such an attack with all the feasible precautions to minimize damage to civilians and civilian property. Attacks which fail to distinguish between military targets and civilians and civilian objects are indiscriminate. Launching an indiscriminate attack resulting in loss of life or injury to civilians or damage to civilian objects constitutes a war crime under customary international law.

¹⁷ Elbit Systems, "Tank Ammunition - 120mm Series", <https://bit.ly/3qKdToU> (accessed on 26 September 2022).

¹⁸ Characterisation of Explosive Weapons, "Weapons systems", <http://characterisationexplosiveweapons.org/weaponssystems> (accessed on 26 September 2022).

Amnesty International has concluded that there are strong indications that the killing of Duniana al-Amour and the apparently deliberate targeting of her family's house, where 11 civilians were present at the time of the attack, was either a direct attack on civilians or an indiscriminate attack. It must be investigated as a possible war crime.

5.2 AL-FALLUJA CEMETERY ATTACK

“Everyone could see that they were just kids sitting or playing, not threatening anyone, doing nothing suspect.”

Wissam Nejem, a cousin of the four Nejem boys.

On 7 August 2022 at approximately 7pm, a missile, apparently fired from a drone, hit Al-Falluja cemetery in Jabalia in the northern Gaza Strip. The attack killed five children: Jamil Najmiddine Nejem, aged four; Jamil Ihab Nejem, aged 14; Nadhmi Abu Karsh, aged 15; and Hamed Haidar Nejem and Muhammad Salah Nejem, both aged 16. The four Nejem boys were all cousins of each other. A sixth child, Amir Abu al-Mi'za, aged eight, was seriously injured in the attack.

Three of the children killed in the attack, Muhammad Salah Nejem, Hamed Nejem and Nadhmi Abu Karsh, were enrolled in a programme funded by the Norwegian Refugee Council to help children cope with the traumatic experiences they went through during the May 2021 Israeli offensive.¹⁹

Parents who rushed to the scene told the fieldworker contracted by Amnesty International on 11 August 2022 that their children's bodies “were torn to smithereens” and were “almost unrecognizable”, leading them to scour the area for what was left of their children's clothes and shoes in order to identify them.

¹⁹ Norwegian Refugee Council, “Gaza: NRC calls for international investigation into killing of three children supported by its trauma care programme”, 10 August 2022, <https://bit.ly/3xu91rT>



The five children who were killed in the attack on Al-Falluja cemetery on 7 August 2022: Jamil Ihab Nejem, aged 14 (top left); Nadhmi Abu Karsh, aged 15 (top right); Hamed Haidar Nejem (left) and Muhammad Salah Nejem (right), both aged 16 (bottom left); and Jamil Najmiddine Nejem, aged four (bottom right). © Private

The Israeli army initially claimed that the Al-Falluja cemetery attack was the result of rockets mistakenly launched by Palestinians.²⁰ However, information leaked to the Israeli daily newspaper Haaretz, which it published in an article on 16 August, contradicted this version of events. Unnamed sources from the Israeli army told the newspaper that a preliminary internal probe conducted by the army into the attack showed that neither Palestinian Islamic Jihad nor the Al-Quds Brigades were firing rockets at the time of the attack and that Israel was carrying out attacks on “targets” near the area.²¹ Since the publication of the article, the Israeli army has neither confirmed nor denied these reports. It has similarly not released any information on the intended target of the attack.

The fieldworker contracted by Amnesty International took photographs of small fragments of the weapon that hit the cemetery over two visits to the site on 11 August and on 21 August. Following an analysis of the photographs, Amnesty International’s weapons expert determined that the finely machined metal pieces were consistent with an Israeli guided missile. Two residents interviewed by the fieldworker on 11 August 2022, whose homes are about 150m and 200m away from the cemetery, said they heard the sound of an Israeli drone flying overhead shortly before the attack, but did not see it.

Amnesty International has not been able to find evidence of any military activity by armed groups in the vicinity. It obtained and analysed satellite imagery from 28 July 2022, which showed no apparent military target in the vicinity of the cemetery 10 days before the attack. It is obviously not possible to discern from the satellite imagery whether the situation had changed by 7 August. However, residents interviewed by the fieldworker on 11 August 2022 said that there were no military targets in the cemetery or its immediate vicinity. “Everyone could see that they were just kids sitting or playing, not threatening anyone, doing nothing suspect,” Wissam Nejem, a cousin of the four Nejem boys, said.

²⁰ Haaretz, “Israel says Islamic Jihad rockets are to blame for Gaza children’s deaths”, 7 August 2022, <https://bit.ly/3RRae4n>

²¹ Haaretz, “Israeli strike killed 5 Gaza children, officials admit, after initially blaming Islamic Jihad”, 16 August 2022, <https://bit.ly/3Bj2DVr>

Haidar Nejem, Hamed Nejem's father, described to the fieldworker the circumstances in which the children were killed, explaining that Al-Falluja cemetery is a place where they regularly played due to a lack of space in the refugee camp:

"My son and his cousins went together to the cemetery to sit by their grandfather's grave, and they were joined by our neighbour Nadhmi, who also tends to visit the cemetery to water his mother's grave and read the *Fatiha* [the first chapter of the Qur'an] for her. Our house is just 150m away from the cemetery and all the houses here are so narrow and overcrowded; the only space where our children can have a breather is at the cemetery."

Fayez Abu Karsh, Nadhmi Abu Karsh's father, confirmed in a separate interview with the fieldworker that his son went to visit his mother's grave just before the attack:

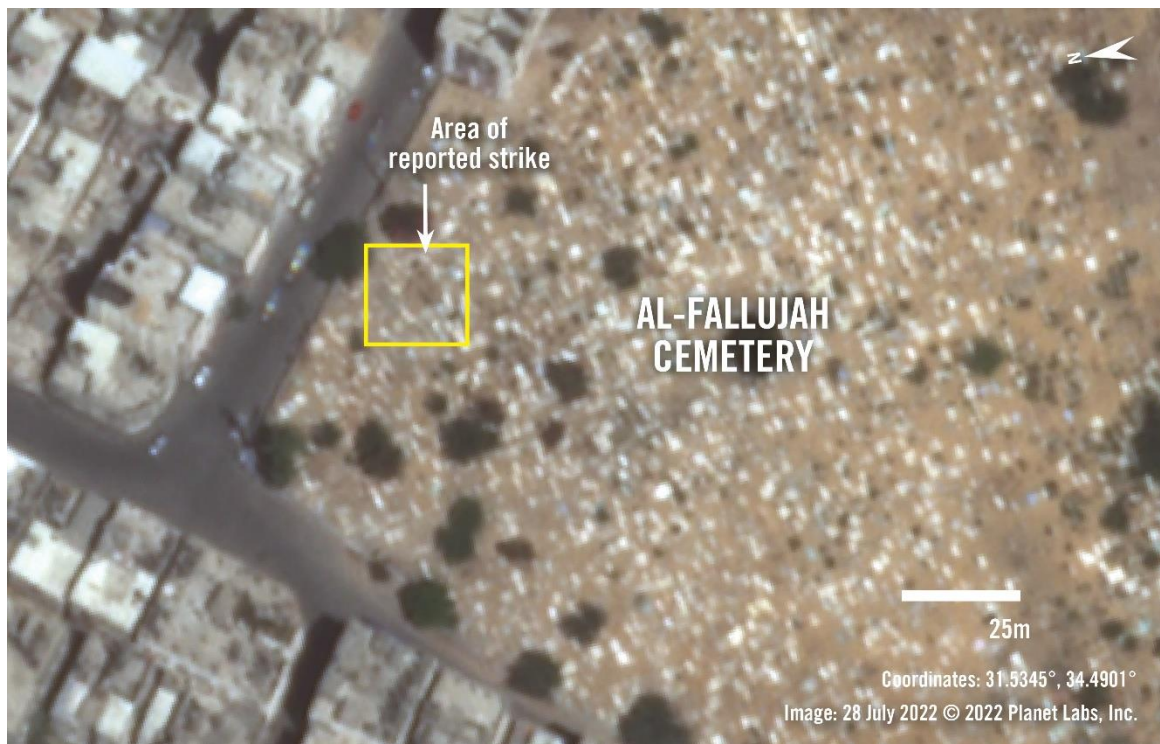
"Our home is very close to the cemetery. We were sitting and heard a drone whizzing overhead, but we have got used to this noise and have got used to ignoring it. Suddenly, we heard the sound of a missile exploding very close to us. I rushed to the cemetery like almost everyone else in the neighbourhood. People started to collect body parts, carrying shreds. Parents could not recognize the bodies of their own children. They did not know if the bits they were holding belonged to their sons. I was hoping that for some reason Nadhmi would have left the cemetery before the strike, but I saw pieces of his shoe near his mother's grave and knew that he hadn't. Ambulances had already taken his body to the Indonesian hospital. When I saw him in the hospital, it was like his head had been slit by a knife, but I'm more fortunate than other parents because at least my son's body was recognizable. It was in one piece."

Mahmoud Abu al-Mi'za, the father of eight-year-old Amir, told an Amnesty International researcher in a phone interview on 12 August that his son survived the attack by a stroke of luck but sustained life-changing injuries:

"I was screaming at my son to come home because it was getting late. Just as he was approaching me – he was maybe 7m away from the cemetery – the missile hit. I saw from the corner of my eye the bodies of the other children torn to pieces. My child survived by a miracle, a question of metres. The Indonesian hospital gave him emergency oxygen but immediately transferred him to Al-Shifa hospital where he underwent surgery to stop the internal bleeding. Everyone told me that my son had been granted a second lease of life. Since then, he has been struggling to walk properly, he can no longer sleep on his own and he keeps asking for his friends. The doctors said that it was too dangerous to attempt removing the shrapnel."

According to medical reports reviewed by Amnesty International researchers on 17 August 2022, a piece of shrapnel remained stuck in his body near his spinal cord.

On the basis of the evidence it collected, coupled with the leaked information from Israeli military sources, Amnesty International believes that the attack on Al-Falluja cemetery on 7 August 2022 was likely to have been carried out by an Israeli guided missile fired by a drone.



Satellite imagery showing Al-Falluja cemetery on 28 July 2022. At the time the imagery was captured, no military target was visible in the vicinity of the location of the strike that occurred on 7 August 2022. © Google Earth

The absence of apparent military targets in the vicinity of the cemetery indicates that the strike may have been a deliberate direct attack on civilians and on a civilian object. Intentionally directing attacks against civilians not taking direct part in hostilities and against civilian objects constitute war crimes under the Rome Statute of the ICC.

Even if Israeli forces hit the cemetery in the context of targeting Palestinian fighters, military sites or equipment in the area, they should have carried out such an attack with all the feasible precautions to minimize damage to civilians and civilian property. Attacks which fail to distinguish between military targets and civilians and civilian objects are indiscriminate. Launching an indiscriminate attack resulting in loss of life or injury to civilians or damage to civilian objects constitutes a war crime under customary international law.

Amnesty International has therefore concluded that there are strong indications that the attack on Al-Falluja cemetery, which led to the killing of five children and a life-changing injury to another, was either a direct attack on civilians or an indiscriminate attack where Israel failed to comply with its obligation to take all feasible precautions to distinguish between civilians and fighters. It must be investigated as a possible war crime. “Nothing can bring back our dead children, but truth and justice could at least give the families some peace,” Wissam Nejem told Amnesty International.

6. APPARENTLY UNLAWFUL ATTACKS BY PALESTINIAN ARMED GROUPS

Amnesty International documented one attack in which it gathered sufficient evidence to conclude that it was likely to have been caused by an unguided rocket launched by a Palestinian armed group in an area populated with civilians and may therefore have been indiscriminate and amount to a war crime.

6.1 JABALIA REFUGEE CAMP ATTACK

On 6 August 2022, at 9.02pm, just as the night-time call to prayer was sounding from the loudspeaker of a nearby mosque, a rocket killed seven Palestinian civilians, including four children, and wounded at least 15 others in Jabalia refugee camp. The rocket damaged dozens of houses on both sides of Trance Street, a main road in the camp. The seven Palestinians killed in the attack were: Momen al-Neirab, aged six; Hazem Salem, aged eight; Ahmad al-Neirab, Momen's brother, aged 12; Ahmad Farram, aged 16; Khalil Abu Hamada, aged 18; Muhammad Zaqqout, aged 19; and Nafeth al-Khatib, aged 50.



Snapshot of a video published by Israeli army on 6 August 2022 claiming to show a barrage of Palestinian rockets being fired and to identify, with a red circle, a rocket that misfired © Amnesty International

At 9pm, two minutes before the strike, the Al-Quds Brigades began sharing on what it said was a volley of rockets being fired towards the cities of Ashkelon and Ashdod in Israel.²² The call to prayer can be heard at the end of the video, suggesting that the Al-Quds Brigades' rocket fire, at the very least, coincided with the attack.

In the aftermath of the attack, the Israeli army published a video claiming to show a barrage of Palestinian rockets being fired at the same time as the Jabalia camp was struck and one of those rockets missing its target.²³ Amnesty International's Evidence Lab analysed the video but could not confirm or refute the Israeli army's claims based on the video alone. The Israeli army also denied that it carried out any air strike on Jabalia "in the last few hours".²⁴

On 8 August the Associated Press news agency visited Trance Street and reported spotting a hole that "had been filled in with dirt", noting that it had previously seen on video footage of the aftermath of the attack "what appeared to be a rocket casing sticking out of the ground" where the hole was.²⁵

On 10 August the fieldworker contracted by Amnesty International separately interviewed nine residents of the area. Six were eyewitnesses of the attack, including two who were wounded in it themselves and four parents of individuals killed or injured in the attack. The remaining three were also parents of individuals killed or injured in the attack, but did not witness it. All nine confirmed that Trance Street was a quiet area where no fighting was taking place. None of them said that they saw or heard an Israeli warplane or drone before the strike. Two people who requested to remain anonymous said that they believed the attack was caused by a "local rocket", but the rest did not comment on which party may have been responsible.

The parents interviewed described the attack's devastating human impact. Rami Abu Eshkayyan, whose three children – Mai, aged 11, Tamer, aged 16, and Abdelaziz, aged 19 – were wounded in the

²² The video was streamed by several news outlets, including Russian broadcaster RT Arabic. See RT Arabic, سرايا القدس توجه ضربة كبيرة لأسدود وعسقلان, 6 August 2022, <https://bit.ly/3BLtbzT>

²³ Israel Defense Forces, תיעוד הירי הרקטי הכושל של גא"פ בג'באליה, 6 August 2022, <https://bit.ly/3SoYd6Q>

²⁴ Ynet, צה"ל פרסם תיעוד: שיגור הרקטה הכושל מעזה שהוביל למותם של 4 ילדים בג'באליה, 7 August 2022, <https://bit.ly/3LUglxa>

²⁵ Associated Press, "Misfired rockets may have killed over a dozen in Gaza battle", 8 August 2022, <https://bit.ly/3dnwX9p>

attack, said that the attack coincided with the night-time call to prayer: “My son was looking out of the window and his brother was playing out on the street. I heard a hit and instantly rose from bed. My son began screaming: ‘Daddy, my face, my eyes.’” He added that, while all of his children were transported to hospital, one of his sons had to hold his wounded little sister in his lap because there was insufficient room in the ambulance.

Muhammad al-Neirab, the father of 12-year-old Ahmad and six-year-old Momen al-Neirab, two of the four children killed in the attack, said:

“It was a hot summer evening and we had the usual power cut, so the children could not stay at home, which is very small and suffocating especially when there is no electricity. Waiting for power to come back on again, the children went to play on the street, waiting for time to pass. I was returning from the supermarket with my two boys and on the doorstep, when, at 9.02pm, the street was hit. It was filled with wounded people, with blood, with shrapnel. My little son Momen died in my arms and Ahmad died just 1m away from me. We just take solace in the fact that the bodies of our children were not torn to pieces.”

Najwa Abu Hamada, the mother of 18-year-old Khalil Abu Hamada, another of those killed in the attack, recalled that, on the day of the attack, the whole of Jabalia camp had only two hours of electricity all day. On 6 August, the Gaza Strip’s sole power station declared that it had to shut down due to five successive days of Israeli closure of the Erez and Kerem Shalom crossings, which cut off access to fuel, exacerbating the already severe power outages in Gaza.²⁶

On 17 August, in an interview with Lebanese daily newspaper Al-Akhbar, an unnamed Palestinian Islamic Jihad source responded to questions over claims that rockets launched by the Al-Quds Brigades had misfired. The source mentioned that “human errors” might have occurred during the conflict, adding that those “errors” were being internally investigated, but did not specify what those incidents were.²⁷

Amnesty International researchers were able to identify several commonalities between the attack on Trance Street in the Jabalia camp and other strikes researched by the organization that were attributed to rockets launched by Palestinian armed groups in previous conflicts.²⁸ These included the removal from attack locations of remnants of weapons which could lead to their identification. This sharply contrasts with the willingness of Palestinian authorities and armed groups in Gaza to preserve and display the remnants of Israeli weapons used in attacks. The commonalities also included the fact that no resident said that they saw or heard an Israeli warplane or drone before the strike and that some residents who requested to remain anonymous said that they believed a “local rocket” was responsible for the attack.

While there is no conclusive evidence that the attack on Trance Street in Jabalia camp was the result of a rocket launched by the Al-Quds Brigades that misfired, Amnesty International believes that there are enough indications to suggest that this was most likely the case. The unguided rockets used by Palestinian armed groups in Gaza, including the Al-Quds Brigades, are inherently inaccurate. Whether they are intended to strike an Israeli civilian area or a military objective, their use in areas populated with civilians is indiscriminate, violates international humanitarian law and may amount to a war crime.

To establish responsibility for the civilian deaths and injuries in the attack, Palestinian authorities must cooperate with independent investigators, including from the ICC. Remnants of the weapon that hit Trance Street must be analysed, and eyewitnesses and survivors of the attack should be allowed to speak out without fear of reprisals. The attack must be investigated as a possible war crime.

²⁶ OCHA, “Escalation in the Gaza Strip and Israel: Flash update #2 as of 18:00”, 8 August 2022, <https://bit.ly/3QL7oN3>

²⁷ Al-Akhbar, “خطأ المقاومة لا يُجزمها”, 17 August 2022, <https://bit.ly/3eOHTNv>

²⁸ See, for example, Amnesty International, *Rocket and Mortar Attacks by Palestinian Armed Groups during the 2014 Gaza/Israel Conflict*, 2015, <https://www.amnesty.org/en/documents/mde21/1178/2015/en>

7. CONCLUSION AND RECOMMENDATIONS

Israel's offensive on the occupied Gaza Strip in August 2022 was much more limited than its four offensives of 2008-09, 2012, 2014 and 2021, in terms of its duration, the intensity of attacks, the number of civilian casualties and the number of alleged violations of international humanitarian law. Nevertheless, Amnesty International has concluded that there are strong indications that several attacks by both Israeli forces and Palestinian armed groups amounted to serious violations of international humanitarian law and possible war crimes.

For the residents of Gaza who were directly affected by the conflict, the grief, destruction and trauma it generated will linger permanently. Virtually all the witnesses, survivors, and victims' relatives interviewed by Amnesty International demanded accountability. In this context, Amnesty International makes the following recommendations:

To the Office of the Prosecutor of the International Criminal Court:

- Urgently investigate any apparent war crimes committed during the August 2022 Israeli offensive in addition to conducting investigations into any apparent war crimes committed by both Israel and Palestinian armed groups during other Israeli offensives on the Gaza Strip since June 2014, in particular those that took place in May 2021 and July-August 2014.
- Consider the applicability of the crime against humanity of apartheid within the current formal investigation of crimes under international law committed in the Occupied Palestinian Territories (OPT) since 13 June 2014.

To the Israeli authorities:

- Allow Amnesty International and other human rights organizations, as well as UN-appointed investigators, including the UN Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, and UN special rapporteurs, unrestricted access to Israel and the OPT, including the Gaza Strip, to investigate suspected violations of international law by all parties to the conflict.
- Cooperate with the investigation by the ICC, as well as with those undertaken by national courts under universal jurisdiction.
- Lift the blockade on the Gaza Strip and other forms of arbitrary restrictions on freedom of movement of people and goods that result in collective punishment.
- Comply fully with international humanitarian law, in particular the principle of distinction and the prohibition of indiscriminate and disproportionate attacks, and the requirement to take precautions in attack.

To the Palestinian authorities:

- Cooperate with the investigation by the ICC, as well as with those undertaken by national courts under universal jurisdiction.
- Grant independent human rights investigators – including international and Palestinian human rights organizations as well as UN-appointed investigators – free, unrestricted access to witnesses, survivors, sites where civilian casualties were documented, and forensic evidence. Ensure that witnesses and victims are allowed to speak freely without fear of reprisals or intimidation.
- Ensure Palestinian armed groups fully comply with international humanitarian law, including the principle of distinction.
- Ensure that Palestinian armed groups take all feasible precautions to protect civilians in Gaza from the effects of attacks, including by refraining from firing rockets in or near civilian areas.

- End the use of unguided rockets and ensure that imprecise weapons are never used to attack objectives in the vicinity of concentrations of civilians.

To other governments:

- Exercise universal jurisdiction, among other mechanisms of international justice, to investigate anyone suspected of committing war crimes in this offensive and previous Israeli offensives. Using international justice mechanisms is particularly necessary in light of Israel's repeated failure to effectively investigate possible war crimes and other crimes under international law committed by its forces.
- Use all diplomatic and political tools to exert pressure on Israel to immediately lift its illegal blockade on the occupied Gaza Strip and cease all other collective punishment measures it currently imposes on the 2 million Palestinians living in the Gaza Strip, including an end to arbitrary restrictions on the freedom of movement of people and goods.
- Urge Israel to allow the passage into Gaza of aid, fuel, electricity and other necessities. Allow patients in need of medical treatment not available in Gaza to leave and guarantee that they will be allowed to return after their treatment. End all restrictions on family unification between Palestinians in Gaza and their spouses in the rest of the OPT and Israel. Allow into Gaza as a matter of urgency the material and equipment necessary for the construction and repair of water and sanitation facilities, and the quantities of fuel necessary for operating these facilities, and ensure that water is never used as an instrument of political or economic pressure under any circumstances.
- Suspend the direct and indirect supply, sale or transfer, including transit and trans-shipment, of all weapons, munitions and other military and security equipment, including the provision of training and other military and security assistance to Israel and Palestinian armed groups.
- Exert effective and concrete pressure on Israel to dismantle its apartheid regime against the Palestinian people, and ensure that your government does not support the system of apartheid or render aid or assistance to maintaining such a regime, including the prolonged blockade of Gaza, and cooperate to bring an end to this unlawful situation.

To the UN Security Council:

- Impose a comprehensive arms embargo on Israel and Palestinian armed groups. The embargo should cover the direct and indirect supply, sale or transfer, including transit and trans-shipment of all weapons, munitions and other military and security equipment, including the provision of training and other military and security assistance.

Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.

Contact


info@amnesty.org


facebook.com/
AmnestyGlobal


@Amnesty


amnesty.org



Amnesty International
Peter Benenson House
1 Easton Street
London WC1X 0DW, UK

Except where otherwise noted, content in this document is licensed under a Creative Commons (attribution, non-commercial, no derivatives, international 4.0) licence (see creativecommons.org/licenses/by-nc-nd/4.0/legalcode).

Where material is attributed to a copyright owner other than Amnesty International, this material is not covered by the Creative Commons licence.

For more information, visit the [permissions page](#) on Amnesty International's website.

Index: MDE 15/6079/2022

Publication: **October 2022**

Original language: **English**

© Amnesty International 2022