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State of Israel

- Unclassified -



Israel and Gaza Strip

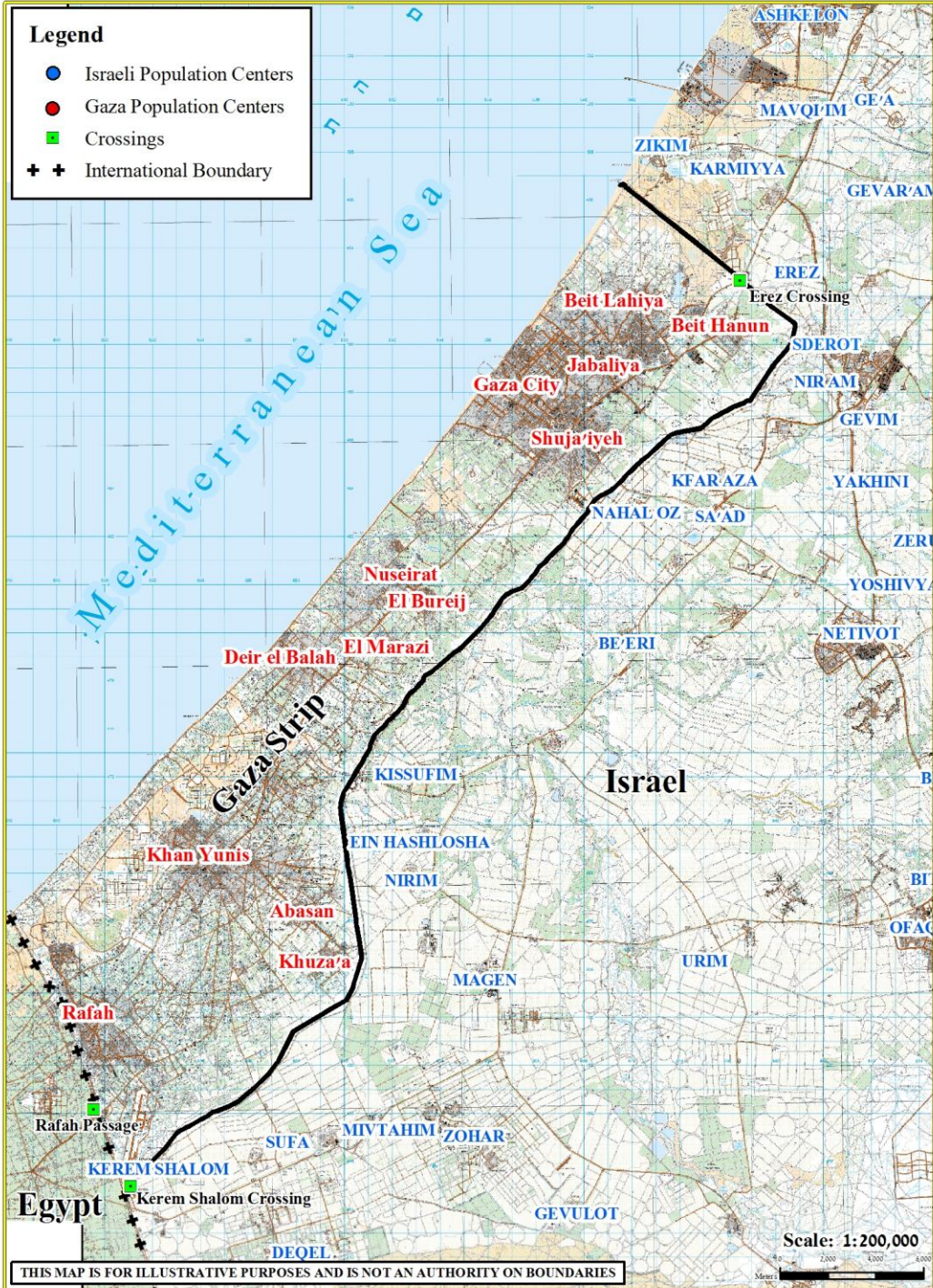




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Gaza Strip





III. Israel's Objectives and Phases of the 2014 Gaza Conflict

71. In the face of increasing rocket and mortar fire from the Gaza Strip during June and early July 2014, Israel repeatedly tried to avoid escalation, and attempted to stop the attacks, primarily by means of diplomacy and limited aerial strikes. Despite Israel's restraint and efforts at de-escalation, Hamas and other terrorist organisations in the Gaza Strip escalated the attacks against Israel, which increased in number, frequency, and intensity,¹⁰⁵ leaving the Government of Israel no choice but to launch a broader military operation in order to protect Israel's civilian population. On the evening of July 7, the Prime Minister of Israel announced the broader operation — termed “Operation Protective Edge” (also referred to herein as the “2014 Gaza Conflict” or the “Operation”) — which lasted for 51 days, until August 26, 2014.

72. During the initial phase of the Operation, which was limited primarily to an aerial campaign, Israel continued to make efforts to de-escalate the conflict. However, Hamas and other terrorist organisations in the Gaza Strip were unwilling to suspend their attacks against Israel, as they were not interested in restoring quiet. Hamas increased rocket and mortar fire, rejected Egypt's ceasefire plan and other ceasefire initiatives, and carried out attacks on Israeli territory by sea and through cross-border assault tunnels. Hamas's and other Palestinian terrorist organisations' capacity and intent to carry out additional, large-scale attacks against Israel, especially through the extensive network of cross-border assault tunnels they themselves built, became increasingly clear.

73. Following Hamas's rejection of all ceasefire initiatives and a major infiltration attempt by Hamas militants into Israel through a cross-border assault tunnel on July 17, Israel concluded that the imminent threat posed by Hamas infiltration into Israel required the immediate dismantling of these cross-border assault tunnels. Accordingly, the Government of Israel authorised the second phase of the Operation: the entry of ground troops into a limited area of the Gaza Strip, in order to identify and dismantle the cross-border tunnels, which originated from the outskirts of the urban areas of the Gaza Strip. On August 5, after locating and neutralising 32 cross-border assault tunnels, IDF ground forces withdrew from the Gaza Strip. The IDF initiated this withdrawal despite ongoing rocket and mortar attacks against Israel.

74. As a result of the ongoing rocket and mortar attacks, Israel continued conducting aerial strikes, in the third and final stage of the Operation, from August 5 until the end of the 2014 Gaza

¹⁰⁵ During the month of June 2014, almost 80 rockets were fired towards Israel from the Gaza Strip. The rocket and mortar fire escalated in July. Between the beginning of July and the launch of the Operation on July 7, over 250 rockets and mortars were fired at Israel from the Gaza Strip. See graph in Section A, *infra*.



Conflict on August 26. The purpose of these strikes was to disrupt and degrade Hamas's attack capabilities, in order to defend the Israeli civilian population from ongoing attacks, while at the same time attempt to reach a ceasefire.

75. In each phase of the 2014 Gaza Conflict, Hamas prolonged the conflict.¹⁰⁶ Hamas and other terrorist organisations in the Gaza Strip repeatedly rejected ceasefire proposals, or violated ceasefires by continuing to fire rockets and mortars towards Israel. Had Hamas accepted the initial Egyptian-brokered ceasefire that the Arab League endorsed and Israel accepted on July 15 — which featured the same terms as the ceasefire offer to which Hamas ultimately agreed in late August — 90 percent of the casualties incurred during the 2014 Gaza Conflict could have been avoided. Instead, Hamas and other terrorist organisations escalated their unlawful rocket and mortar attacks and tunnel infiltrations into Israel. As Chapter IV (Hamas's War Crimes) demonstrates, Hamas and other terrorist organisations in the Gaza Strip systematically and deliberately violated the Law of Armed Conflict and committed war crimes and crimes against humanity, at the expense of civilian life and property in Israel and in the Gaza Strip. As described in Chapter VI (IDF's Conduct during the Conflict), Israel attempted at all times to mitigate risk to civilians and civilian property during the 2014 Gaza Conflict, in accordance with its obligations under the Law of Armed Conflict (and in many cases, with restrictions imposed by national policy and military directives, which went beyond the Law of Armed Conflict requirements). Such efforts stood in stark contrast with Hamas and other terrorist organisations' incessant attacks on Israel's civilian population.

A. Israel's Strategic Objectives

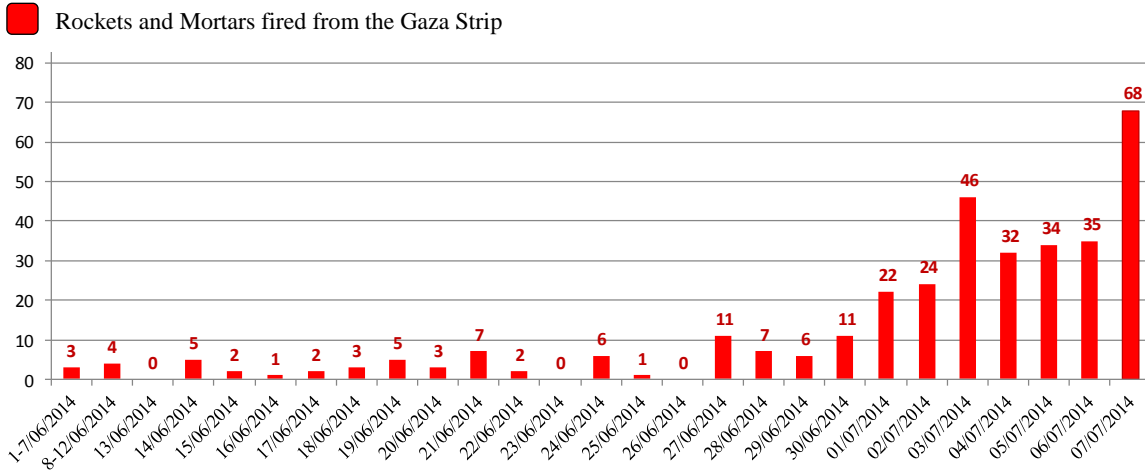
76. At the outset of the 2014 Gaza Conflict, which followed over a month of continuous and increasing rocket and mortar launches towards Israeli civilian centres (as detailed in the graph below), Israel publicly announced its strategic goals for the Operation: to defend its citizens and restore sustained calm and security to the Israeli civilian population from unlawful attacks. On July 8, at the very beginning of the Operation, Prime Minister Netanyahu explained:

In recent days, Hamas terrorists have fired hundreds of rockets at Israel's civilians. No other country lives under such a threat, and no country would accept such a threat. Israel will not tolerate the firing of rockets on our cities and towns. We have therefore significantly expanded our

¹⁰⁶ See Remarks by National Security Advisor Susan E. Rice to the National Jewish Leaders Assembly (July 28, 2014) ("Hamas initiated this conflict. And, Hamas has dragged it on."), available at <http://www.whitehouse.gov/the-press-office/2014/07/29/remarks-national-security-advisor-susan-e-rice-national-jewish-leaders-a>.



operations against Hamas and the other terrorist organisations in Gaza. This comes after our repeated efforts to restore calm were met with increased Hamas rocket fire. Israel is not eager for war, but the security of our citizens is our primary consideration. Israel targets Hamas terrorists and not innocent civilians. By contrast, Hamas targets Israeli civilians while hiding behind Palestinian civilians.¹⁰⁷



77. Over the course of the 2014 Gaza Conflict, Israel focused its military efforts on two main objectives: (1) degradation of Hamas’s and other terror organisations’ military infrastructure, particularly with respect to their rockets and mortar launching capabilities, and, as the conflict proceeded, (2) neutralisation of their network of cross-border assault tunnels. While Israel envisions the transformation of the Gaza Strip into a completely demilitarised territory¹⁰⁸ — a vision shared by the European Union¹⁰⁹ and the United States¹¹⁰ as a cornerstone principle of the peace process and a condition for long-term security and stability in the region — Israel did not set out to accomplish this goal by military means during the 2014 Gaza Conflict.

78. Instead, as mentioned above, the strategic objective of the Operation was to stem the attacks directed against Israeli civilians and to provide security to the residents of Israel. Therefore, the IDF

¹⁰⁷ Prime Minister’s Office, Press Releases, Statement by Prime Minister Benjamin Netanyahu (July 8, 2014), available at <http://www.pmo.gov.il/English/MediaCenter/Spokesman/Pages/spokebibi080714.aspx>.

¹⁰⁸ Netanyahu talks demilitarization in US Interviews, Haaretz (July 28, 2014), available at <http://www.haaretz.com/news/diplomacy-defense/1.607495>.

¹⁰⁹ EU Council Conclusions on the Middle East Peace Process, Brussels (July 22, 2014), available at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/144092.pdf; EU Council Conclusions on the Middle East, Brussels (Aug. 14, 2014), available at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/144313.pdf.

¹¹⁰ Concurrent Resolution Denouncing the Use of Civilians as Human Shields by Hamas and Other Terrorist Organizations in Violation of International Humanitarian Law, H. Con. Res. 107, U.S. Senate (Dec. 9, 2014), available at <http://www.gpo.gov/fdsys/pkg/BILLS-113hconres107eas/pdf/BILLS-113hconres107eas.pdf>.



sought to damage and destroy rocket and mortar launchers as well as supporting infrastructure, degrade and disrupt Hamas command, control, communication, and intelligence capabilities, and attack Hamas's and other terror organisations' militants. To protect Israeli citizens from the threat of cross-border assault tunnels, the IDF was compelled to conduct a limited ground incursion into the Gaza Strip to locate and dismantle these cross-border tunnels, which were located under the urban areas in the outskirts of the Gaza Strip. Israel promptly ceased all offensive military action when Hamas agreed to abide by a ceasefire and suspended attacks against Israel.

79. In keeping with its objective to restore quiet and security and protect its population against attacks, throughout the 2014 Gaza Conflict Israel repeatedly strove to achieve a cessation of active hostilities and to uphold the 2012 ceasefire understandings (with Egypt's addition of a reference to ceasing all activity below ground, *i.e.*, the cross-border tunnels). Israel also declared unilateral humanitarian ceasefires, cooperated with the international community and kept humanitarian crossings open in order to provide civilians in the Gaza Strip with humanitarian aid, even as Hamas and other terrorist organisations continued attacks that placed Israeli and Palestinian civilians, humanitarian workers, and IDF soldiers at risk.¹¹¹

80. In contrast, Hamas's conduct prolonged the 2014 Gaza Conflict. Hamas and other terrorist organisations in the Gaza Strip repeatedly rejected, or accepted and then broke, attempted ceasefires. For instance, Hamas rejected the July 15 Egyptian ceasefire initiative accepted by Israel (the terms of which were nearly identical to those of the ceasefire understandings agreed upon on August 26, 2014). Israel suspended combat operations on July 15 until it became apparent that Hamas had no intention of stopping its attacks.¹¹² Hamas also made several extreme demands as preconditions for a ceasefire and escalated those demands as the conflict progressed. Early on in the 2014 Gaza Conflict, Khaled Mashal, Hamas's political leader, declared that Hamas would not be satisfied with a return to the 2012 ceasefire and mutual understandings, and that Hamas sought additional far-reaching concessions from Israel, as well as from other actors that were not engaged in the hostilities, such as Egypt.¹¹³ Furthermore, on July 20 and 28, and on August 1, 8, 13 and 19, Hamas and other terrorist organisations in the Gaza Strip breached mutually agreed-upon ceasefires.

¹¹¹ See Chapter VI (IDF's Conduct during the Conflict), Section E.

¹¹² See graph in Section B, *infra*. See also Chapter VI (IDF's Conduct during the Conflict), Section E. For a catalogue of Hamas's ceasefire violations, see *Protective Edge: Hamas' Violations of Ceasefires - a Chronology*, Israel Ministry of Foreign Affairs, available at <http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Pages/Protective-Edge-Hamas-violations-of-ceasefires-chronology.aspx>.

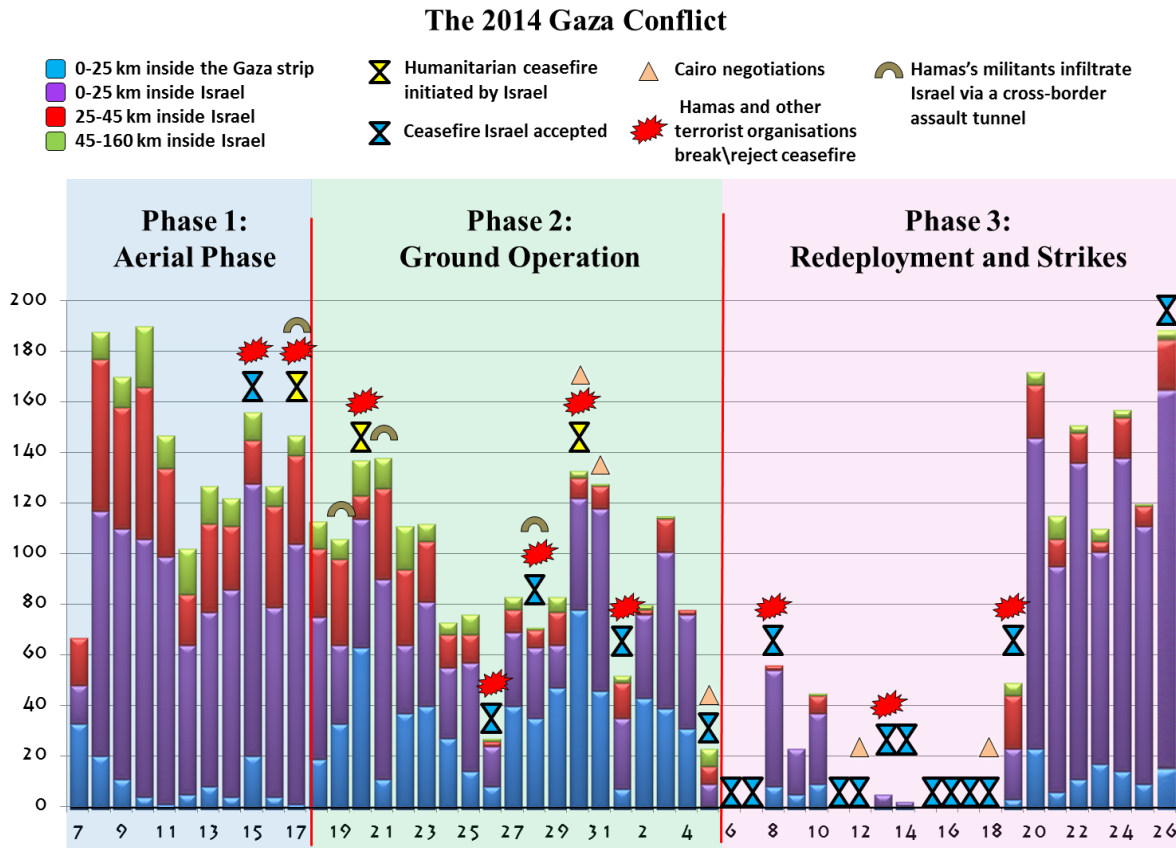
¹¹³ Ruth Sherlock & Carol Malouf, *Hamas Leader Khaled Meshal Lays Out Terms of Ceasefire*, The Telegraph (July 17, 2014), available at

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B. Phases of the 2014 Gaza Conflict

81. The 2014 Gaza Conflict consisted of three operational phases: precision aerial strikes (Phase One); a limited ground incursion combined with continued aerial strikes (Phase Two); and redeployment and aerial strikes (Phase Three). The chart below demonstrates that throughout all three phases, Hamas and other terrorist organisations in the Gaza Strip launched a barrage of rocket and mortar attacks towards Israel’s civilian population and used cross-border tunnels to infiltrate Israeli territory in order to attack, kidnap, and kill Israeli civilians and soldiers. This chart and the chart in Section B.3 below also demonstrate that throughout the 2014 Gaza Conflict, Hamas and other terrorist organisations repeatedly rejected or violated ceasefire accords.



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<http://www.telegraph.co.uk/news/worldnews/middleeast/palestinianauthority/10974072/Hamas-leader-Khaled-Meshaal-lays-out-terms-of-ceasefire.html>. For example, Hamas demanded the opening of the Egyptian Rafah crossing.



1. Phase One: The Aerial Campaign (July 7 – July 17)

82. In order to protect its civilians and restore an acceptable level of protection and normalcy to the civilian population, the Government of Israel ordered an expanded aerial campaign to degrade the military capacity of Hamas and other terrorist organisations in the Gaza Strip to conduct such attacks. Primarily through air strikes, as well as through naval strikes by the Israel Navy, Israel sought to neutralise this threat by conducting carefully targeted attacks against senior militant commanders, destroying or disrupting projectile launch capabilities, command posts, weapons depots, rocket and mortar manufacturing sites, and — as the threat of cross-border assault tunnels became increasingly clear — neutralising cross-border assault tunnel routes.¹¹⁴

83. During this first phase of the Operation, Israeli civilians continued to face the threat of attack by air, sea, and land. Between July 7 and July 17, Hamas and other terrorist organisations in the Gaza Strip launched an average of 140 rockets and mortars towards Israel per day. Warning sirens sounded in all major Israeli cities, including Ashdod, Ashkelon, Be'er Sheva, Tel Aviv, Jerusalem, and as far north as Haifa. Hamas employed long-range weapons, extending the threat of rocket fire to about 70 percent of the Israeli population and terrorising over six million Israeli civilians.¹¹⁵ On July 8, the IDF intercepted four armed militants belonging to Hamas's naval commando unit, who infiltrated Israel by sea and landed on the Israeli coast near the residential community of Kibbutz Zikim.¹¹⁶ On July 14, two Hamas unmanned aerial vehicles ("UAV") penetrated Israeli territory; one of them was intercepted by the IDF while the other managed to return to the Gaza Strip.

84. A week into the 2014 Gaza Conflict, after actively engaging with both sides, Egypt announced a ceasefire initiative that was endorsed by the Arab League.¹¹⁷ Israel accepted this

¹¹⁴ See Prime Minister's Office, Press Release, *Cabinet Approves PM Netanyahu's Economic Benefits Plan for Sderot and the Communities in the Area Adjacent to the Gaza Strip* (July 13, 2014) ("The IDF will continue to operate until the goals of Operation Protective Edge are achieved – the restoration of quiet to Israel's citizens while inflicting a severe blow to the terrorist infrastructure."), available at <http://www.pmo.gov.il/English/MediaCenter/Spokesman/Pages/spokeEco130714.aspx>.

¹¹⁵ Israel's defence systems were not able to fully insulate the Israeli home front from the effect of these attacks. See Chapter IV (Hamas's War Crimes) and Chapter V (The Threat to Israel's Civilian Population).

¹¹⁶ See *Hamas Played Its Best Cards, and Lost*, IDF (Oct. 13, 2014), available at <http://www.idfblog.com/blog/2014/10/13/hamas-played-best-cards-lost/>.

¹¹⁷ *Arab League urges 'all parties' to back Egypt's Gaza truce plan*, Arab News (July 14, 2014), available at <http://www.arabnews.com/news/602176>.



proposal and suspended military operations on the morning of July 15.¹¹⁸ However, Hamas rejected the ceasefire efforts, launching over 50 rockets that morning alone.¹¹⁹ In the face of unceasing rocket attacks against Israeli civilians, Israel had no choice but to resume military operations.

85. Two days later, at dawn on July 17, 13 armed Hamas militants infiltrated Israeli territory via a cross-border assault tunnel with an exit point in close proximity to civilian homes in Kibbutz Sufa, a residential community in southern Israel. In response to the imminent danger to civilians, the IDF instructed residents of 13 nearby residential communities to remain in their homes. Before the militants were able to carry out attacks within Israel, the IDF launched aerial strikes against them. Some of the militants were killed, while others escaped back to the Gaza Strip through the cross-border assault tunnel — leaving behind, among other equipment, four rocket-propelled grenade (“RPG”) launchers and more than a dozen rockets, machine guns, assault rifles, and grenades.¹²⁰ On the same day, the IDF intercepted another Hamas UAV that had penetrated Israeli airspace and that Hamas’s military wing claimed was intended to attack a target located deep inside Israel.¹²¹

86. The July 17 underground incursion by Hamas militants into Israeli territory — coupled with Hamas’s rejection of the Egyptian-brokered ceasefire two days earlier — made it clear that IDF airstrikes had not neutralised the threat of imminent danger of rocket and mortar attacks and ground incursions directed against both Israeli civilians and IDF personnel. The IDF tried to minimise the threat posed by the network of cross-border assault tunnels by airstrikes directed at known tunnel

¹¹⁸ Prime Minister’s Office, Secretary Announcements, Remarks by Prime Minister Benjamin Netanyahu (July 18, 2014), available at <http://www.pmo.gov.il/English/MediaCenter/SecretaryAnnouncements/Pages/govmes180714.aspx>.

¹¹⁹ The ceasefire was supposed to take place starting at 09:00. Between 09:00 and 14:30, Hamas and other terrorist organisations fired 56 rockets. Israel did not initiate air strikes until 14:30, when it became clear that Hamas had no intention of respecting the ceasefire. During the entire day of July 15, a total of 157 rockets were fired towards Israel. Hamas officials and spokesmen, including Abu Obeida, the Hamas spokesman for the Izz al-Din al-Qassam Brigades, and Sami Abu Zuhri, a Gazan official, announced that Hamas had rejected the Egyptian ceasefire initiative. See, e.g., Nidal al-Mughrabi & Jeffery Heller, *Israel Targets Top Hamas Leader as Cease-Fire Collapses*, Reuters (July 15, 2014), available at <http://www.reuters.com/article/2014/07/15/us-palestinians-israel-idUSKBN0FI04420140715>. Leading international actors, such as U.S. Secretary of State John Kerry, strongly condemned Hamas’s rejection of the ceasefire: “I cannot condemn strongly enough the actions of Hamas in so brazenly firing rockets in multiple numbers in the face of a goodwill effort to offer a ceasefire, in which Egypt and Israel worked together, that the international community strongly supports.” Michael Wilner, *Kerry Slams Hamas for Bucking Ceasefire with Israel*, The Jerusalem Post (July 15, 2014), available at <http://www.jpost.com/Operation-Protective-Edge/Kerry-cancels-trip-to-Cairo-relying-on-Egyptian-brokered-ceasefire-instead-362853>.

¹²⁰ For a video of the infiltration on July 17, see IDF, *Footage of Hamas Tunnel Terror Attack Being Thwarted*, YouTube (July 17, 2014), <https://www.youtube.com/watch?v=SM6WUoel7xk>. See also IDF, *Tunnels and Weapons Used During Hamas Infiltration into Israel*, YouTube (July 17, 2014), <https://www.youtube.com/watch?v=xjkwIMRZI8o>.

¹²¹ *IDF intercepts another Hamas UAV*, Ynetnews (July 17, 2014), available at <http://www.ynetnews.com/articles/0,7340,L-4545505,00.html>.



shafts. However, these strikes alone could not neutralise the threat of infiltrations, because Hamas and other terrorist organisations could bypass damage to sections of tunnels by digging around or using alternative sections of the tunnels. In addition, not all cross-border assault tunnel routes and shafts that were being used for military purposes were known to the IDF at the time, and presence on the ground was required in order to locate them. Thus, in light of the severe risk that these tunnels posed to Israeli civilians, as well as to IDF forces, Israel decided to launch a ground operation. As Prime Minister Netanyahu stated, the use of ground forces to counter this threat was a last resort:

Because it is not possible to deal with the tunnels only from the air, our soldiers are now doing so on the ground We chose to commence this operation after we had exhausted the other possibilities, and with the understanding that without action, the price that we would pay would be much greater.¹²²

¹²² Prime Minister's Office, Secretary Announcements, Remarks by Prime Minister Benjamin Netanyahu (July 18, 2014), available at <http://www.pmo.gov.il/English/MediaCenter/SecretaryAnnouncements/Pages/govmes180714.aspx>.



In-Depth: The Tunnel Threat

Increasing Tunnel Activity: 2001-2009

Beginning in 2001, Hamas and other terrorist organisations in the Gaza Strip began to dig tunnels in order to direct military activity against Israel. These tunnels followed the use of already existing smuggling tunnels, which for two decades have connected Egypt and the Gaza Strip.¹²³ These tunnels have facilitated the illicit movement of a variety of supplies, such as construction materials, dual-purpose materials and weapons, as well as militants. The international community has long acknowledged the dangerous impact of such arms trafficking on regional stability.¹²⁴

Following the Israeli withdrawal from the Gaza Strip in 2005, the construction and utilisation of military tunnels grew and Hamas redirected its military activities towards planning attacks on sovereign Israeli territory by way of secret cross-border tunnels. On June 25, 2006, IDF soldier Corporal Gilad Shalit was kidnapped through a tunnel that infiltrated Israeli territory near the Kerem Shalom crossing. Corporal Shalit was held in the Gaza Strip for five years *incommunicado* and freed in 2011 only after Israel agreed to release 1,027 Palestinian security prisoners of various organisational affiliations.

When Hamas violently seized control of the Gaza Strip in 2007,¹²⁵ it also took over the tunnel and smuggling industry, which enhanced its ability to acquire arms and construction materials for tunnels used for military purposes. Over the years and due to Hamas's control over the Gaza Strip, Hamas's tunnel-construction efforts and capabilities improved tremendously. Tunnels became longer, deeper, more stable, and more secure. Hamas's efforts focused on three types of tunnels —

¹²³ Smuggling tunnels are particularly prevalent at the border-city of Rafah, the territory of which is split between the Gaza Strip and in Egypt. See Suzanne Goldenberg, *Guns for sale - how stolen Israeli weapons arm Fatah's fighters*, The Guardian (Dec. 15, 2000), available at <http://www.theguardian.com/world/2000/dec/16/israel>. Hamas had also employed children as labourers in smuggling tunnels. Nicolas Pelham, *Gaza's Tunnel Phenomenon: The Unintended Dynamics of Israel's Siege*, J. Palestinian Stud. No. 164, v. 41, at 6 (Summer 2012), available at <http://palestine-studies.org/jps/fulltext/42605>. See also Khaled Kraizim, *The Children of Gaza's Tunnels*, Al Monitor (May 19, 2013), available at <http://www.al-monitor.com/pulse/iw/originals/2013/05/child-labor-gaza-tunnels-egypt-rafah.html>.

¹²⁴ From 1994-1999, the IDF, the security forces of Egypt, and the Palestinian Authority discovered approximately 60 smuggling tunnels linking the two sides of Rafah. Over the course of the Second Intifada (beginning in 2000), terrorist organisations became increasingly motivated to use tunnels along the Egyptian border in order to smuggle arms into the Gaza Strip. From 2000 until the Israeli withdrawal from the Gaza Strip in 2005, the IDF discovered 121 smuggling tunnels. In 2009, the international community acknowledged the arms smuggling problem and set up the Gaza Counter-Arms Smuggling Initiative (GCASI) to combat this threat.

¹²⁵ See Chapter II (Background to the Conflict).



smuggling tunnels; combat tunnels, which are tunnels used for internal military activity underneath the populated urban areas of the Gaza Strip; and cross-border assault tunnels, which originate in the urban areas of the Gaza Strip and open inside Israeli territory, and are used by militants to infiltrate Israeli territory in order to attack, kill, and kidnap Israeli civilians and soldiers.

Operations in the Gaza Strip 2008-2009 and 2012

During the Gaza Operation 2008-2009 (also known as Operation “Cast Lead”), the IDF found over 70 shafts of combat tunnels inside the Gaza Strip. These tunnels served a variety of operational purposes: they enabled Hamas militants to emerge suddenly from below the ground and ambush, kill, or kidnap IDF ground troops; they connected command and control centres and bunkers for militants to hide in; and they facilitated the storage, transport, and launch of weapons.¹²⁶

In the period following the Gaza Operation 2008-2009, Hamas engaged in an extensive military build-up, which included a massive expansion of its tunnel infrastructure.¹²⁷ After the Gaza Operation 2012 (also known as Operation “Pillar of Defense”), it became evident that Hamas had transferred a great deal of its military activities underground, to both cross-border and combat tunnels.¹²⁸ Hamas employed this strategy to evade IDF attacks against its operations and to reduce the IDF’s intelligence-gathering capabilities. Hamas has increasingly used these tunnels for military activities: to launch rockets and mortars towards Israel’s civilian population (see photos below); to

¹²⁶ Examples of Hamas’s use of these tunnels can be found in Chapter IV (Hamas’s War Crimes) and Chapter VI (IDF’s Conduct during the Conflict).

¹²⁷ Tunnel-digging is a complex and laborious enterprise. A great deal of time, engineering equipment, and manpower, including skilled labour, is required to carefully dig and panel the tunnels and discreetly remove upended earth. Israeli intelligence estimates that, in 2010, the annual cost of tunnel building in the Gaza Strip was approximately 16 million USD. Today, due to rising prices, the annual cost is estimated to be at least 18-20 million USD — or approximately 50% of the budget of Hamas’s military wing. Indeed, the total annual cost is likely even higher, as IDF intelligence confirms that there are additional expenditures that cannot currently be quantified. The costly construction of the tunnels came at the expense of civilians in the Gaza Strip. For example, in many cases, cement imported into the Gaza Strip for the construction of civilian homes was stolen by Hamas and other terrorist organisations and diverted to tunnel construction.

¹²⁸ A document circulated among Palestinian militant groups in the Gaza Strip in 2013 describes the importance and intended effect of the tunnels: “The tunnel war is one of the most important and most dangerous military tactics in the face of the Israeli army because it features qualitative and strategic dimensions, because of its human and moral effects, and because of its serious threat and unprecedented challenge to the Israeli military machine.” Adnan Abu Amer, *Tunnel May Signal Shift in Hamas-Israel Conflict*, Al-Monitor (Oct. 22, 2013), available at <http://www.al-monitor.com/pulse/originals/2013/10/gaza-tunnel-israel-shift-hamas-war.html>. Furthermore, on March 23, 2014, then-Hamas Prime Minister Ismail Haniyeh referenced the tunnels as key to Hamas’s new strategy against Israel: “From below ground and above ground, you, the occupiers, will be dismissed. You have no place in the land of Palestine.” See Nidal Al-Mughrabi, *Hamas rally in Gaza takes aim at Egypt, Israel and Abbas*, Reuters (Mar. 23, 2014), available at <http://www.reuters.com/article/2014/03/23/us-palestinian-gaza-hamas-idUSBREA2M0F920140323>.



discreetly store rockets, mortars and other weapons; to infiltrate Israeli territory through cross-border assault tunnels in order to attack, kill, and kidnap Israeli civilians and soldiers; to provide escape routes and hideouts for militants after conducting attacks; and to harm IDF forces operating inside the Gaza Strip. The use of the combat tunnels creates a 360-degree, multidimensional threat — making it difficult, and sometimes impossible, to ensure that areas of operation are clear of enemy presence, since the enemy could suddenly emerge from unexpected directions, including from civilian sites and structures.¹²⁹

The 2014 Gaza Conflict

Following the Gaza Operation 2012, Hamas prioritised developing cross-border assault tunnel infrastructure and devoted substantial resources — in manpower, materials, and finances — towards this goal. Cross-border tunnel routes often originated in urban neighbourhoods on the outskirts of the Gaza Strip and extended underground beneath the heavily guarded border between the Gaza Strip and Israel, in violation of Israeli sovereignty. These cross-border assault tunnels, many of which were built and fortified by concrete, were between one and 2.5 kilometres long and up to 25-40 metres deep. Each tunnel had dozens of shafts allowing for various entry or exit points along its route. In the two years leading up to the 2014 Gaza Conflict, the IDF exposed four tunnels that ran underneath Israeli territory — which were only a small portion of Hamas’s cross-border tunnel infrastructure.¹³⁰

¹²⁹ See Chapter VI (IDF’s Conduct during the Conflict), Section C.

¹³⁰ On November 8, 2012, a tunnel rigged with explosives blew up near Kibbutz Nirim, injuring IDF troops that patrolled the fence between Israel and the Gaza Strip (an additional route of the same tunnel was identified and destroyed during the 2014 Gaza Conflict). On January 13, 2013, a tunnel opening was found in the area of Kibbutz Nahal Oz, and on October 7, 2013, a tunnel of high-quality construction was discovered near Kibbutz Ein HaShlosa. While the IDF was preparing to destroy the latter tunnel, Hamas detonated a high-impact explosive from within the tunnel, injuring five IDF soldiers. On March 18, 2014, another tunnel of high-quality construction was discovered near Kibbutz Ein HaShlosa, extending hundreds of metres into Israel.



Above left: A cross-border assault tunnel discovered on March 18, 2014 near Kibbutz Ein HaShlosha on Israeli territory. Above right: The U.N. Secretary-General, Ban Ki Moon, visited this cross-border tunnel on October 14, 2014.¹³¹ The high-quality construction and large operational capacity of some of the tunnels discovered during the two-year period leading to the 2014 Gaza Conflict highlighted the extent of the danger posed by Hamas's tunnel network. (Source: IDF)

The increasingly high-quality construction and improved operational capacity of both types of tunnels — cross-border assault tunnels and combat tunnels — highlighted the extent of the danger posed by Hamas's military infrastructure. Some tunnels (both cross-border and combat) were equipped for long stays underground. For example, many of the tunnels discovered during the 2014 Gaza Conflict had electricity and communication systems. Many tunnels also had airshafts and sometimes even compressors to allow for ventilation. In addition, tunnels often featured subterranean rooms equipped with beds, first aid materials, non-perishable food, and weapons.

The shafts of cross-border and combat tunnels were strategically located to facilitate Hamas's and other terrorist organisations' military activity. Shafts were often placed near vantage points that provided a military advantage for attacks on approaching IDF troops, and were often concealed within or placed near sensitive civilian sites (such as residential houses, mosques, and medical clinics) that IDF forces might avoid entering or attacking. In order to prevent the detection of the cross-border assault tunnels, the openings into Israeli territory were often left to be finished in the last hours before an intended attack. Hiding entrances in civilian buildings in the Gaza Strip had the added advantage of allowing infiltrators escaping from Israel into the Gaza Strip to blend into the civilian population immediately (possibly with kidnapped Israeli civilians or soldiers), thus

¹³¹ *U.N. Secretary-General, Ban Ki Moon, Visits Hamas Terror Tunnel in Southern Israel*, IDF (Oct. 14, 2014), available at <http://www.idfblog.com/blog/2014/10/14/un-secretary-general-ban-ki-moon-visits-hamas-terror-tunnel-southern-israel/>.



complicating an IDF rescue mission or counter-strike. With the help of its tunnel network, Hamas converted civilian areas into combat zones filled with military objectives that were difficult to identify until they were encountered by IDF soldiers.



Above Left: An open tunnel shaft that served as site for rocket launches towards Israel. (Source: MEMRI-TV)

Above Right: Palestinian Islamic Jihad militants launching rockets from within a tunnel. (Source: MEMRI-TV)¹³²

Throughout the 2014 Gaza Conflict, militants used tunnels in an effort to protect storage and launching sites from exposure.¹³³

A comparison between the combat tunnel infrastructure discovered during the Gaza Operation 2008-2009 and the 2014 Gaza Conflict confirms that Hamas had, in the interim years, developed these tunnels as a central strategic aspect of its warfare. Although IDF forces during the Gaza Operation 2008-2009 encountered some combat tunnels in the Gaza Strip used for operational and logistical purposes, by the time of the 2014 Gaza Conflict, the quantity, quality, and uses of these tunnels had increased dramatically.

The Kidnapping Threat

Cross-border assault tunnels allow a substantial number of armed militants to penetrate Israel at once, carry out attacks on Israeli civilians and IDF troops, and smuggle kidnapped Israelis — dead or alive — back into the Gaza Strip. Similarly, combat tunnels beneath the Gaza Strip support efforts to kidnap IDF soldiers operating there. In two of the instances during the 2014 Gaza Conflict when

¹³² See MEMRI TV, *Palestinian Islamic Jihad Video Showcases Subterranean Rocket Launching Capabilities*, YouTube (July 30, 2014), <https://www.youtube.com/watch?v=hZpP6CaMPRO>.

¹³³ See MEMRI TV, *Footage of Tunnels Used by Hamas for Terror Attacks*, YouTube (July 21, 2014), <https://www.youtube.com/watch?v=IMzLCJyevCk>; MEMRI TV, *TV Report Shows Islamic Jihad Missile-Launching Pads in Gaza Tunnels*, YouTube (Aug. 10, 2014), <https://www.youtube.com/watch?v=2fDFDXwhx3E>.



Hamas attempted to kidnap IDF soldiers, Hamas used combat tunnels dug beneath what appeared to be civilian structures.¹³⁴

Kidnapping is a strategy commonly used in asymmetric warfare by terrorist organisations around the world. Hamas clearly considers the kidnapping of IDF or Israeli civilian personnel as a decisive leverage point over Israel, and therefore devotes substantial resources to this objective. Past conduct also indicates that kidnappings are not for the traditional purpose of preventing a captured enemy from returning to hostilities, but instead to leverage indefinite detention for strategic advantage. Hamas has also identified kidnapping as an effective means of inflicting fear and psychological terror upon the Israeli civilian population, and has for years expressed support and encouragement for kidnappings, and carried out kidnappings and kidnapping attempts, including of civilians.¹³⁵ Indeed, Hamas established a specialised unit called “Nuhba” dedicated to this purpose and has persistently tried to kidnap Israeli soldiers and civilians, including by way of tunnels.¹³⁶

¹³⁴ See Section B.2, *infra*.

¹³⁵ For instance, in an interview with the journal Al-Thabat on April 4, 2006, Ahmed Ja’abri, the head of Hamas’s military wing at the time, declared, “The Jihad warriors, people of Qassam [referring to Izz al-Din al-Qassam, the military wing of Hamas] think night and day about kidnapping Zionists.” *Special Interview- Ahmed Ja’abri*, PALDF (April 05, 2006), available at <http://www.paldf.net/forum/showthread.php?t=55836> (in Arabic).

More recently, in a June 23, 2014 interview with Al-Jazeera following the kidnapping of the three Israeli teenagers in the West Bank, Khaled Mashal, Hamas’s political leader, said: “Such an act [the kidnapping and murder of the three Israelis] is a Palestinian obligation. It is the duty of the Palestinian nation.” Al- Jazeera, *Special Interview- Khaled Mashal*, YouTube (June 23, 2014), <https://www.youtube.com/watch?v=VUVaf-8LS5o> (in Arabic). See also Jack Khoury, *Hamas chief lauds abductors of Israeli Teens, says has no new information*, Haaretz (June 23, 2014), available at <http://www.haaretz.com/news/diplomacy-defense/1.600759>.

¹³⁶ During 2013-2014, Israeli security services foiled many plots by Hamas cells to kidnap Israeli soldiers and civilians. For example, in August 2013, Israeli security services stopped a Hamas military plan to kidnap an Israeli civilian for use as a bargaining chip in a prisoner exchange. The planners, residents of Beit Liqya in the West Bank, were funded by Hamas in the Gaza Strip, and received weapons, gathered intelligence about possible targets, and even prepared a cave in which to hide the kidnapped party. See *Kidnapping attacks – Hamas’s strategic tool against Israel*, Israel Security Agency, available at <http://www.shabak.gov.il/publications/study/Pages/NewItem270714.aspx> (Hebrew). And on June 12, 2014, Hamas militants kidnapped and murdered three Israeli youths in the West Bank. See *Terrorists responsible for abduction and murder of teens apprehended*, Israel Ministry of Foreign Affairs (Sep. 23, 2014), available at <http://mfa.gov.il/MFA/PressRoom/2014/Pages/Terrorists-responsible-for-abduction-and-murder-of-teens-apprehended-23-Sep-2014.aspx>.



2. Phase Two: The Ground Operation (July 17 – August 5)

87. The Government of Israel launched its ground operation on July 17 with the aim of locating and neutralising the threat to Israeli citizens posed by the sophisticated network of secret cross-border assault tunnels.¹³⁷ Given the narrow operational objectives of this mission, IDF ground forces operated in a limited territorial area on the outskirts of the Gaza Strip's civilian neighbourhoods, where intelligence reports indicated the cross-border assault tunnels originated. The IDF did not employ ground forces beyond these areas, and did not impose a "buffer zone" or "no-go zone" in the areas in which it did operate. While employing ground forces, the IDF continued executing aerial strikes against military targets.

88. IDF ground forces worked to complete this mission as rapidly as possible in order to minimise the time required to maintain a ground combat presence in the Gaza Strip, especially given the heightened threat that the urban ground operation posed to IDF soldiers and Palestinian civilians.¹³⁸ As soon as the IDF accomplished its military goals on August 5, IDF ground forces withdrew, unilaterally terminating ground combat operations against Hamas and other terrorist organisations.

89. From the outset of this phase of the Operation, IDF commanders were acutely aware of the challenges the mission would create. Close combat operations against non-state actors like Hamas who consistently violate international law impose immense burdens on forces committed to compliance with the Law of Armed Conflict. Under such circumstances, the IDF was routinely subject to enormous risk, which Hamas exacerbated by deliberately placing tunnel entrances and exits in urban areas — forcing the IDF to conduct operations in densely populated neighbourhoods. The limited geographic scope of the mission, tailored operational objectives, and efforts to mitigate risk to civilians demonstrate the extent to which the IDF went to balance the need to rapidly

¹³⁷ Prime Minister's Office, Secretary Announcements, Remarks of Prime Minister Benjamin Netanyahu (July 18, 2014) ("Last night, our forces commenced a ground operation in order to strike at the terrorist tunnels that run from the Gaza Strip into Israeli territory. I remind you that it was through such a tunnel that Hamas terrorists infiltrated into our territory yesterday morning in order to perpetrate a large scale attack against Israel's citizens. The IDF successfully thwarted this terrorist act. Because it is not possible to deal with the tunnels only from the air, our soldiers are now doing so on the ground. Even here there is no guarantee of 100% success, but we are doing our utmost in order to achieve the maximum. . . . Last night's operation came after Israel agreed to the Egyptian ceasefire proposal and to the UN initiative for a humanitarian truce. In both cases, Hamas continued firing. We chose to commence this operation after we had exhausted the other possibilities, and with the understanding that without action, the price that we would pay would be much greater."), available at <http://www.pmo.gov.il/English/MediaCenter/SecretaryAnnouncements/Pages/govmes180714.aspx>.

¹³⁸ For more details about the challenges of urban warfare in the Gaza Strip, see Chapter VI (IDF's Conduct during the Conflict), Section C.



accomplish its mission with the interest of mitigating risk to civilians. However, mitigating risk in such a context can never truly eliminate risk, and despite extensive efforts, Israel's ground combat operations regrettably resulted in civilian casualties.

90. In recognition of the risk to civilians, throughout the ground operation, the IDF went to great lengths to mitigate danger to civilians, implementing extensive precautionary measures, including the provision of effective advance warnings.¹³⁹ For instance, after the IDF determined that locating and neutralising the cross-border assault tunnels required entry into the neighbourhood of Shuja'iyyeh — a Hamas stronghold on the outskirts of the Gaza Strip from which hundreds of rockets were fired at Israel, and from which several cross-border assault tunnels originated — the IDF repeatedly warned residents to evacuate, indicating when IDF forces would be operating in the area. Following three days of warnings, the IDF postponed its entry to the area by an additional 24 hours, in order to allow as many residents as possible to evacuate before the IDF ground forces entered Shuja'iyyeh on July 19. The warnings that were provided, and the delay in the operation, meant that the IDF lost the operational element of surprise and allowed Hamas militants to be fully prepared for combat.¹⁴⁰ In another attempt to minimise harm to civilians, Israel announced a unilateral suspension of fire in Shuja'iyyeh on July 20 to allow for the evacuation of civilians who had remained there despite IDF warnings, including wounded civilians.¹⁴¹ The IDF continued to hold its fire even when militants reinitiated fire a mere 40 minutes into the suspension and continued to direct steady fire at IDF troops for a number of hours.

91. As stated above, the IDF's operational objective during the ground operation was to neutralise the cross-border assault tunnels and the imminent danger they presented not only to the IDF but to Israeli civilians. Over the course of the ground operation, the IDF encountered a total of 32 cross-border assault tunnels. Fourteen of these tunnels actually penetrated Israeli territory and contained openings in or close to residential communities; meanwhile, 18 other tunnels that were under construction approached the border with Israel. The process of locating, mapping and neutralising the cross-border assault tunnels was complex. It required substantial resources, thoroughness, precision, and a considerable amount of time. An effective neutralisation of a tunnel

¹³⁹ For information about the extent of the IDF's precautionary measures, see Chapter VI (IDF's Conduct during the Conflict), Section D.2.b.

¹⁴⁰ In contrast, Hamas issued contrary instructions directing civilians to stay. See Chapter IV (Hamas's War Crimes), Section C.

¹⁴¹ *Shortlived truce broken in Gaza's Shujayea*, Al-Jazeera (July 20, 2014), available at <http://www.aljazeera.com/news/middleeast/2014/07/ceasefire-under-way-gaza-201472010432898980.html>; *Israel, Hamas agree to two-hour truce in Gaza's Shejaiya*, Yahoo News (July 20, 2014), available at <http://news.yahoo.com/hamas-accepts-call-three-hour-humanitarian-truce-095802332.html>.



required dismantling it entirely. To locate the various cross-border routes, IDF forces had to conduct extensive digging and engineering operations. And to dismantle the tunnels, the IDF had to use explosives, which led to damage to the ostensibly civilian structures used to conceal cross-border tunnel openings, and on occasion caused unavoidable incidental damage to the civilian buildings situated aboveground.

92. The IDF had to accomplish this mission in urban terrain controlled by the enemy, under the constant threat of enemy attack. The location of these tunnels in and around civilian structures in urban areas created serious operational challenges for IDF ground forces. The fact that tunnels had multiple openings meant that the IDF was unable to ensure that areas of operation were clear of enemy presence and also unable to know from which direction militants could emerge and how close they could get to IDF troops. Indeed, militants from Hamas and other terrorist organisations prepared and carried out numerous ambushes, attacks, and kidnapping attempts against IDF forces near tunnel shafts. Therefore, neutralising the cross-border assault tunnels required extensive protection of the IDF forces that were locating, mapping and dismantling the tunnels in the Gaza Strip. IDF forces had to use armoured and infantry forces as well as aerial support, and to take up vantage points in order to reduce the threat and harm to the forces on the ground — including the threat that Hamas would kidnap soldiers within the Gaza Strip. As a result of these challenges, the ground operation required a large number of forces in order to complete the mission.¹⁴²

93. In Shuja'iyeh, for example, IDF forces met strong and organised resistance. Hamas cooperated with other terrorist organisations, using offensive and defensive positions prepared in advance, booby-traps, and a vast network of combat tunnels (the majority of which were placed in civilian structures that Hamas turned into military objectives). During the ground operation in Shuja'iyeh, IDF forces found six cross-border assault tunnels directed at Israeli communities, dozens of tunnel shafts, and dozens of civilian houses rigged with booby-traps.

94. Meanwhile, during this phase of the 2014 Gaza Conflict, Hamas and other terrorist organisations continued launching thousands of rockets and mortars at Israel's civilian population. In just one example, a rocket struck a civilian house in Yehud, a city near Ben Gurion International Airport, Israel's main commercial aviation hub. This incident prompted the U.S. Federal Aviation

¹⁴² Ground forces were accompanied by ancillary officers, such as Civilian Affairs Officers, who advised operational commanders regarding aspects concerning the civilian population. *See* IDF Chapter VI (IDF's Conduct during the Conflict), Section E.1.



Administration to issue a notice prohibiting all U.S. commercial flights to the airport.¹⁴³ Many European and other airlines subsequently cancelled flights to Israel, which were only gradually restored thereafter.¹⁴⁴

95. Hamas also sought to implement its kidnapping strategy throughout the 2014 Gaza Conflict, and especially during the ground operation, as Hamas militants made kidnapping attempts both through cross-border assault tunnels and through combat tunnels in the Gaza Strip. For example, on July 20, Hamas militants kidnapped the body of First Sergeant Oron Shaul through a combat tunnel shaft located in Shuja'iyeh.¹⁴⁵ Preventing Hamas from kidnapping Israeli civilians and soldiers was a high-priority military objective throughout the Operation.



Above Left: A structure designed to appear civilian in nature that was built above the combat tunnel used by Hamas militants to kidnap the body of First Sergeant Oron Shaul in Shuja'iyeh on July 20. Above Right: Image of a combat tunnel shaft hidden under a carpet inside a civilian house in Deir al Balah, found by IDF forces on July 22. (Source: IDF)

¹⁴³ Federal Aviation Administration, Press Release, Notice to Airmen (July 22, 2014), http://www.faa.gov/news/press_releases/news_story.cfm?newsId=16694.

¹⁴⁴ Jad Mouawad, *Airlines Suspend Flights to Israel After Hamas Rocket Falls Near Main Airport*, N.Y. Times (July 22, 2014), available at http://www.nytimes.com/2014/07/23/world/middleeast/faa-halts-us-flights-to-israel.html?_r=0; Mark Berman, *FAA announces that U.S. flights to and from Tel Aviv can resume*, The Washington Post (July 23, 2014), available at <http://www.washingtonpost.com/news/post-nation/wp/2014/07/23/faa-u-s-flights-banned-from-flying-to-and-from-israel-for-another-day/>.

¹⁴⁵ Hamas is still holding the body of the kidnapped soldier, First Sergeant Oron Shaul. See *Staff Sergeant Oron Shaul*, Prime Minister's Office (July 20, 2014), available at <http://www.pmo.gov.il/English/TerrorInjured/Pages/vicOronShaul.aspx>. In addition to this kidnapping, Hamas militants carried out another kidnapping attempt through a combat tunnel that was located within an urban area in the Gaza Strip. On August 1, during a mutually agreed-upon ceasefire, Hamas militants opened fire at IDF soldiers near a combat tunnel in Rafah, and one of the militants dragged Lieutenant Hadar Goldin's body through a combat tunnel. See Section B.2, *infra*. In another incident, on July 25, when IDF forces encountered Hamas militants emerging from a tunnel shaft in Khuza'a, Hamas militants unsuccessfully tried to kidnap wounded IDF soldiers. Two soldiers were killed in this attack.



96. Furthermore, during the 2014 Gaza Conflict, Hamas militants infiltrated Israeli territory four times by way of cross-border assault tunnels: on July 17 (before the start of the IDF ground operation), and on July 19, 21 and 28 (during the ground operation). Hamas employed well-armed, specially trained militants to execute these attacks. The militants carried weapons, including anti-tank missiles, machine guns, grenades, and sometimes even anti-tank mines, as well as equipment to facilitate kidnappings, such as tranquillising drugs and handcuffs. The first infiltration attack following the launch of the ground operation occurred on July 19 near Kibbutz Be'eri, in which two IDF soldiers patrolling the area were killed.¹⁴⁶ Another attack occurred on July 21 in the territory of Kibbutz Nir Am,¹⁴⁷ in which four IDF soldiers protecting the Kibbutz were killed. An additional attack occurred on July 28 in the territory of Kibbutz Nahal Oz,¹⁴⁸ in which five IDF soldiers protecting the Kibbutz were killed. Throughout the 2014 Gaza Conflict, Israeli civilians near the border with the Gaza Strip lived in constant fear that Hamas militants could emerge from the ground and attack them at any time.¹⁴⁹

¹⁴⁶ On July 19, approximately ten armed Hamas militants emerged from a tunnel opening 4.7 kilometres from civilian homes in Kibbutz Be'eri, equipped with tranquillisers and handcuffs, indicating their intention to kidnap civilians or soldiers. They fired at IDF vehicles that they encountered, killing two soldiers and wounding three. One of the militants was killed and the rest escaped to the Gaza Strip, leaving behind two RPG launchers and rockets, anti-tank mines, a machine gun, AK47 assault rifles, magazines and grenades. Also on July 19, while the IDF Engineer Corps was mapping a tunnel network near the Kissufim crossing, three militants exited a cross-border tunnel shaft on the Gazan side, crossed the fence, and launched anti-tank missiles towards a bulldozer. As a result of IDF fire, an explosive belt that was strapped to one of the militants exploded. Two militants were killed and the third escaped back to the Gaza Strip via the tunnel. In addition to personal weapons and anti-tank missiles, tranquillising drugs and handcuffs were found on the bodies of militants, demonstrating their intention to kidnap.

¹⁴⁷ On July 21, approximately 12 Hamas militants infiltrated Israel via a tunnel opening located in the territory of Kibbutz Nir Am, just 1.3 kilometres from civilian homes in the Kibbutz and 1.1 kilometres from civilian homes in the city of Sderot. The militants encountered an IDF force, and attacked them with anti-tank missiles, machine-gun fire, and small arms. Four Israeli soldiers were killed, and a Hamas militant attempted to kidnap one of the soldiers.

¹⁴⁸ On July 28, nine Hamas militants infiltrated Israeli territory through a tunnel opening in the territory of Kibbutz Nahal Oz, just two kilometres from civilian homes in the Kibbutz. They attacked an IDF post near the tunnel shaft and killed five soldiers. The militants were equipped with at least two RPG launchers and rockets, a machine gun, AK47 assault rifles, grenades, and magazines. The video of the incident, which was filmed by one of the militants, includes footage of militants exiting the tunnel onto Israeli territory, attacking an IDF post, killing five Israeli soldiers and trying, unsuccessfully, to kidnap one of them. Edited parts of this video were publicised for propaganda purposes. See RoYan 1, *Nahal Oz Hamas attack on Israeli military outpost*, YouTube (July 29, 2014), <https://www.youtube.com/watch?v=SdGCtjFxFxJWU>. Later, three ready-to-use motorcycles, explosives, and RPG rifles and personal weapons were found in the tunnel, attesting to the militants' ability to penetrate deep into Israeli territory and carry out attacks.

¹⁴⁹ For more detail on the impact of these infiltrations on Israeli civilian life, see Chapter IV (Hamas's War Crimes) and Chapter V (The Threat to Israel's Civilian Population). See also, e.g., Maayan Lubell, *Tunnel Attack Fears Turn Gaza Border Kibbutzim in Ghost Towns*, Reuters (July 22, 2014), available at <http://www.reuters.com/article/2014/07/22/us-palestinians-israel-tunnels-idUSKBN0FR1KV20140722>.



Above: Photos of tunnels found during the ground operation phase of the 2014 Gaza Conflict. (Source: IDF)¹⁵⁰



Above Left: Three ready-to-use motorcycles found inside a cross-border assault tunnel with an opening in close proximity to civilian homes in Kibbutz Nahal Oz, discovered following the infiltration of Hamas militants on July 28. These motorcycles attest to the militants' ability to penetrate deep into Israeli territory and carry out attacks. Above Right: Explosives, RPG rifles and personal weapons found in the same tunnel. (Source: IDF)

97. Throughout the ground operation, Hamas and other terrorist organisations frustrated ceasefire efforts. For example, on July 25, the U.S. Secretary of State, the U.N. Secretary General, and the Egyptian Foreign Minister supported a ceasefire initiative at a joint press conference in Cairo. This initiative called for a seven-day humanitarian ceasefire in anticipation of the coming Muslim holidays of Laylat Al-Qadr and Eid Al-Fitr.¹⁵¹ As a first step, Robert Serry, the U.N. Special Coordinator for the Middle East Peace Process, negotiated a 12-hour humanitarian pause. Israel accepted the proposal. The U.N. Special Coordinator repeatedly called for extensions over the next

¹⁵⁰ For video footage of a tunnel found during the 2014 Gaza Conflict, see IDF, *Inside a Hamas Terror Tunnel*, YouTube (August 1, 2014), <https://www.youtube.com/watch?v=k3AY7o9Xg-g&feature=youtu.be>.

¹⁵¹ Remarks, John Kerry, U.S. Secretary of State, Cairo, Egypt (July 25, 2014), available at <http://www.state.gov/secretary/remarks/2014/07/229803.htm>.



two days,¹⁵² and Israel indicated it would agree to implement such extensions. However, Hamas resumed rocket fire on July 26, minutes after the original 12-hour ceasefire expired.¹⁵³ On July 28, Israel and Hamas agreed to a humanitarian ceasefire called for by the Security Council in light of the upcoming Muslim holidays¹⁵⁴ — only to have this ceasefire broken by rockets fired into Israel. The U.N. Special Coordinator negotiated another ceasefire, set to begin on the morning of August 1, which Israel again accepted. An hour and a half into this mutually-agreed upon ceasefire, however, Hamas militants ambushed IDF forces in the Rafah district, killing two IDF soldiers and kidnapping a third soldier through a combat tunnel. Although the IDF initially believed that the kidnapped soldier was still alive, forensic evidence found at the tunnel a few hours after the attack indicated that the soldier had been killed.¹⁵⁵ Following this ceasefire violation, the U.N. Special Coordinator urged the Palestinian parties “to urgently reaffirm their commitment to the humanitarian ceasefire.”¹⁵⁶

98. The ground fighting in the Gaza Strip took a heavy toll on the IDF. Forty-one IDF soldiers were killed and many others were injured during the ground operation while trying to defend Israel’s civilian population from the threat posed by cross-border assault tunnels. As further detailed below,¹⁵⁷ combat in densely populated urban areas creates significant operational and tactical challenges, which were compounded by Hamas’s exploitation of civilian structures in an urban terrain (at the cost of enhanced risk to the civilian population). Under these difficult circumstances, the IDF took extensive steps to mitigate the risk of harm to civilians in the area of hostilities, often resulting in increased risk to its own forces.

¹⁵² Statement by Robert Serry, United Nations Special Coordinator for the Middle East Peace Process, calling for an extension of the humanitarian pause, Jerusalem (July 26, 2014), available at <http://www.unsco.org/Documents/Statements/SC/2014/Statement%20by%20the%20UN%20Special%20Coordinator%2026%20July%202014.pdf>.

¹⁵³ Sam Frizell, *Hamas Agrees to Cease-Fire, but Rockets Keep Flying*, Time (July 27, 2014), available at <http://time.com/3042209/israel-gaza-hamas-cease-fire/>.

¹⁵⁴ Yousef Al-Helou et al., *Holiday Bring No Respite from Death in Gaza, Israel*, USA Today (July 29, 2014), available at <http://www.usatoday.com/story/news/world/2014/07/28/un-demands-gaza-cease-fire/13257629/>.

¹⁵⁵ A day after the attack, a special tribunal presided over by the IDF Chief Rabbi determined that the soldier in question, Lieutenant Hadar Goldin, had been killed. See *Lieutenant Hadar Goldin*, Prime Minister’s Office (Aug. 1, 2014), available at <http://www.pmo.gov.il/english/terrorinjured/pages/vichadargoldin.aspx>.

¹⁵⁶ See Statement by Robert Serry, United Nations Special Coordinator for the Middle East Peace Process, on a reported violation of the humanitarian ceasefire, Jerusalem (Aug. 1, 2014), available at <http://www.unsco.org/Documents/Statements/SC/2014/Statement%20by%20the%20UN%20Special%20Coordinator%201%20August%202014.pdf>; *Terrorists Breach Ceasefire, Suspected Abduction*, Israel Ministry of Foreign Affairs, available at <http://mfa.gov.il/MFA/PressRoom/2014/Pages/Terrorists-breach-ceasefire,-suspected-abduction-1-Aug-2014.aspx>.

¹⁵⁷ Chapter VI (IDF’s Conduct during the Conflict), Section C.



99. On the morning of August 5, after neutralising a total of 32 cross-border assault tunnels, the IDF withdrew its ground forces from the Gaza Strip,¹⁵⁸ even though rocket and mortar attacks on Israel continued and a permanent ceasefire had not been reached.

3. Phase Three: Redeployment and Aerial Strikes (August 5 – August 26)

100. After IDF ground forces withdrew from the Gaza Strip on August 5, Hamas and other terrorist organisations continued to launch rockets and mortars at Israel, in breach of various mutually agreed-upon ceasefires. For instance, after agreeing to a 72-hour Egyptian-brokered ceasefire beginning on August 5, fire from the Gaza Strip resumed before the ceasefire was set to expire on August 8, with mortars launched towards the Kerem Shalom Crossing point. This breach occurred despite the fact that Israel had notified Egypt of its willingness to extend the ceasefire for another 72 hours. Hamas subsequently agreed to another Egyptian-brokered 72-hour ceasefire to begin on August 11, but once again terrorist organisations in the Gaza Strip violated the agreement by launching mortars. During this period, Hamas also fired rockets into Israel from Lebanon, in an attempt to open additional fronts against Israel and divert IDF resources.¹⁵⁹ On August 19, Hamas and other terrorist organisations broke yet another ceasefire by launching approximately 50 rockets and mortars at Israel.

101. In contrast, Israel refrained from launching attacks during all ceasefires. When ceasefires were not in force or after they had been violated by the other side, the IDF conducted airstrikes in an effort to further degrade the rocket- and mortar-launching capabilities of Hamas and other terrorist organisations in the Gaza Strip.

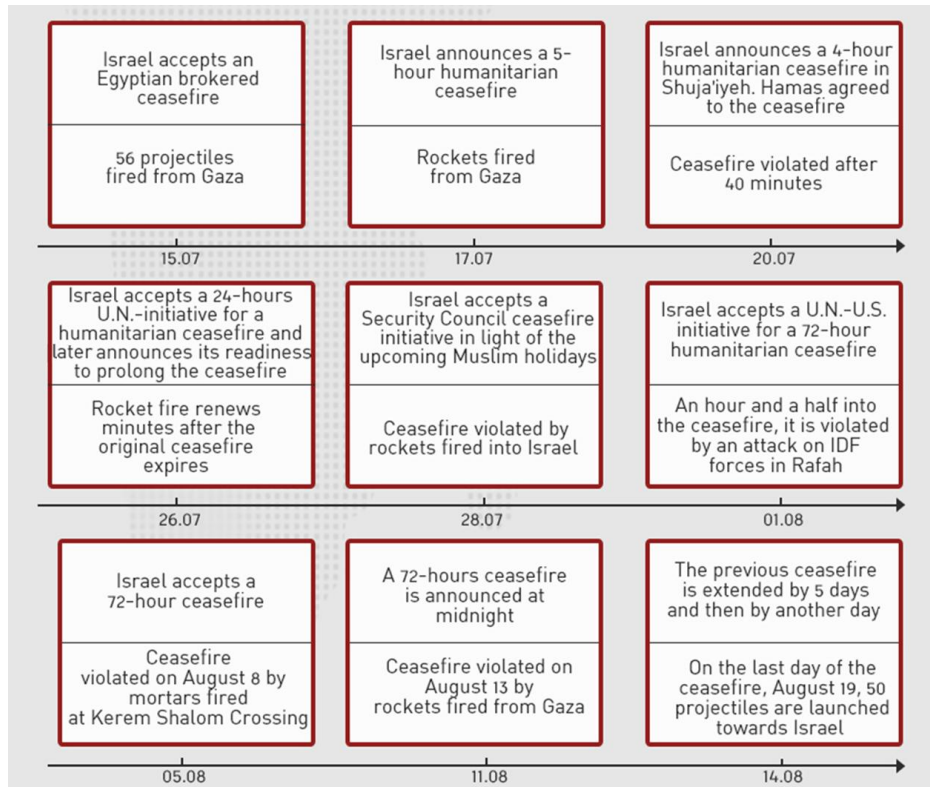
102. Between August 20 and the end of active hostilities on August 26, Hamas and other terrorist organisations continued to fire at Israel, directing mortars mainly towards the Israeli residential

¹⁵⁸ *PM Netanyahu holds press conference*, Israel Ministry of Foreign Affairs (Aug. 6, 2014) (“You either achieve it by agreement or you achieve it by actually going in to the other side, finding the points of origin of the tunnel or a point of origin, identify the trajectory of the tunnel and then dismantling it, destroying it through various means. And that’s basically what we did. If we could have done it diplomatically, fine. If not, we did it militarily and the army just told us that they completed this activity and then we went out. We went in to deal with the tunnels; we went out after we finished dealing with the tunnels.”), available at <http://mfa.gov.il/MFA/PressRoom/2014/Pages/PM-Netanyahu-holds-press-conference-6-Aug-2014.aspx>.

¹⁵⁹ *Hamas Al-Aqsa TV News Chief: Rockets From Lebanon In Recent Gaza War Were Fired On Instructions By Hamas Military Wing*, Middle East Media Research Institute (Feb. 17, 2015), available at <http://www.memri.org/report/en/0/0/0/0/8441.htm>.



communities of southern Israel. During this period, an average of 146 rockets and mortars were fired at Israel per day, killing three Israeli civilians, including a 4-year-old boy in his home.¹⁶⁰



C. Ceasefire and Outcome of the 2014 Gaza Conflict

103. The 2014 Gaza Conflict concluded on August 26, with a ceasefire adhered to by both Israel and Hamas. During the 51 days of the 2014 Gaza Conflict, Hamas and other terrorist organisations fired more than 4,500 rockets and mortars, approximately 4,000 of which were directed at Israeli cities, towns, and residential communities.¹⁶¹ Hamas also executed a number of cross-border attacks on Israeli territory. In response to Hamas’s actions, the IDF attacked thousands of military targets

¹⁶⁰ See Chapter V (The Threat to Israel’s Civilian Population).

¹⁶¹ The remaining rockets and mortars were directed at IDF troops in the Gaza Strip. Approximately 250 of the launches directed towards Israel failed, landing in the Gaza Strip. These rockets and mortars contributed substantially to the damage to civilian life and property in the Gaza Strip incurred during the 2014 Gaza Conflict. See Chapter IV (Hamas’s War Crimes), Section A. See also Annex: *Palestinian Fatality Figures in the 2014 Gaza Conflict*, also available at <http://mfa.gov.il/ProtectiveEdge/Documents/PalestinianFatalities.pdf>.



throughout the Gaza Strip¹⁶² and neutralised a total of 32 cross-border assault tunnels — 14 of which crossed into Israel near or within civilian residential communities, and 18 under construction which approached the border with Israel.

104. Unfortunately, Hamas and other terrorist organisations prolonged the 2014 Gaza Conflict by repeatedly violating or rejecting temporary ceasefires and setting unreasonable preconditions for negotiations. In violation of international law, these organisations employed military strategies that involved deliberate targeting of Israeli civilians and were designed to exacerbate unnecessary and unlawful risk and harm to civilian life on both sides. Hamas and these terrorist organisations operated against the best interests of the people of the Gaza Strip, succeeding only in causing further instability.

105. In total, six civilians in Israel (five Israeli civilians and one Thai national) and 67 IDF soldiers lost their lives during the 2014 Gaza Conflict. In the Gaza Strip, approximately 2,125 Palestinians were killed.¹⁶³ As of April 2015, at least 936 of these fatalities (at least 44% of the total) have been positively identified by the IDF as militants affiliated with Hamas and other terrorist organisations in the Gaza Strip.¹⁶⁴ Thirty-six percent of total fatalities have been classified as civilians not taking a direct part in the hostilities, either because there was no indication that they

¹⁶² For additional information regarding the military targets attacked by the IDF and the targeting process, see Chapter VI (IDF's Conduct during the Conflict), Section D.

¹⁶³ It has been claimed that the disparity between the number of Palestinian and Israeli fatalities demonstrates that the IDF employed disproportionate force against its adversaries in the Gaza Strip. This claim reflects a flawed understanding of the principle of proportionality under the Law of Armed Conflict, which requires a party planning an individual attack on a specific target to assess whether the expected incidental harm (to civilians, civilian objects or a combination thereof) would be excessive in relation to the concrete and direct military advantage anticipated. Proportionality is not assessed by comparing numbers of fatalities on both sides to the conflict after the conflict is over. The numbers comparison is also a flawed understanding of the principle of proportionality in the *jus ad bellum* context: assessing the proportionality of force in self-defence is not a comparison of how much force each sides uses (or how much harm each side causes), but concerns the amount of force used by one side of the conflict in order to repel an armed attack. For a detailed analysis, see Annex: *Palestinian Fatality Figures in the 2014 Gaza Conflict*, also available at <http://mfa.gov.il/ProtectiveEdge/Documents/PalestinianFatalities.pdf>.

¹⁶⁴ A special team within the IDF Intelligence Corps has been charged with closely tracking information relating to Palestinian fatalities, drawing from both classified and public sources. The information gathered thus far has revealed that the share of militants among the deceased is much higher than estimates published by the U.N., various non-governmental organisations, and media sources — which relied heavily on inaccurate and deliberately misleading and falsified fatality lists, such as those published by the Hamas-controlled Gaza Health Ministry. Hamas deliberately blurred the distinction between militants and civilian fatalities in the 2014 Gaza Conflict — a strategy it has employed previously — complicating efforts to categorise fatalities accurately based solely on public sources. Thus, IDF Intelligence has performed its own careful, thorough analysis. For a comprehensive description of the IDF analysis and findings, see Annex: *Palestinian Fatality Figures in the 2014 Gaza Conflict*, also available at <http://mfa.gov.il/ProtectiveEdge/Documents/PalestinianFatalities.pdf>. See also Chapter IV (Hamas's War Crimes), Section B; Chapter II (Background to the Conflict), Section D; Chapter VI (IDF's Conduct during the Conflict), Section D.3.



were involved in combat or because they were assumed to be uninvolved based upon their age and gender.¹⁶⁵ Twenty percent of total fatalities, all males between the ages of 16-50, have yet to be identified as having been involved or uninvolved in combat.

106. At the end of the 2014 Gaza Conflict, both sides agreed to a month-long temporary ceasefire without preconditions. Further negotiations of terms in Egypt were meant to follow, but as of April 2015, negotiations have yet to commence. During the lull in active hostilities since the end of August 2014, Israel has facilitated the reconstruction of the Gaza Strip, agreeing to a Gaza Reconstruction Mechanism, as detailed in Chapter VI (IDF's Conduct during the Conflict). Hamas, for its part, is actively preparing for future hostilities against Israel.¹⁶⁶ Hamas and other terrorist organisations continue to incite terror attacks against Israeli civilians,¹⁶⁷ to attempt to smuggle illicit weapons and related materials,¹⁶⁸ to conduct rocket test launches, to fire rockets towards Israel,¹⁶⁹ to plan future attacks and kidnappings,¹⁷⁰ and to develop the tunnel infrastructure¹⁷¹ (including by

¹⁶⁵ In all but a few rare instances, women, children under the age of 16, and the elderly were automatically categorised as “uninvolved,” despite the fact that the media and IDF intelligence have documented cases of members of these groups providing combat assistance. See, e.g., *Gaza Terror Group Trains Women to Become Jihadists*, Arutz Sheva (Feb. 27, 2015), available at <http://www.israelnationalnews.com/News/News.aspx/191913#.VPV1T3ysUkV>; see also Annex: *Palestinian Fatality Figures in the 2014 Gaza Conflict*, also available at <http://mfa.gov.il/ProtectiveEdge/Documents/PalestinianFatalities.pdf>.

¹⁶⁶ See, e.g., *Hamas and the other terrorist organizations based in Gaza are rehabilitating the military capabilities damaged in Operation Protective Edge through extensive recruitment, the establishment of military units and intensive military training*, Meir Amit Intelligence and Terrorism Information Center (Feb. 2, 2015), available at http://www.terrorism-info.org.il/Data/articles/Art_20765/E_017_15_11612686.pdf; Amos Harel, *Hamas seeking to fight Israel from Lebanon*, Haaretz (Feb. 18, 2015), available at <http://www.haaretz.com/news/diplomacy-defense/premium-1.642980>; Quentin Sommerville, *Inside the Gaza Strip's tunnels, militants get ready for the next war*, BBC News (Feb. 26, 2015), available at <http://www.bbc.com/news/world-middle-east-31637592>.

¹⁶⁷ *Recurring Palestinian Incitement: Leaders Praise Tel Aviv Stabbings*, IDF (Jan. 22, 2015), available at <http://www.idfblog.com/blog/2015/01/22/recurring-palestinian-incitement-leaders-praise-tel-aviv-stabbings/>; *Israel says it busted Hamas cell planning attacks*, Yahoo News (Nov. 27, 2014), available at <http://news.yahoo.com/israel-says-busted-hamas-cell-planning-attacks-101830915.html?ylt=AwrBEiTVBXdUS3cA1KjQtDMD>.

¹⁶⁸ *Cleared for Publication: Three Hamas-Affiliated Suspects Arrested in Smuggling Attempt*, IDF (Feb. 12, 2015), available at <http://www.idfblog.com/blog/2015/02/12/cleared-publication-three-hamas-affiliated-suspects-arrested-smuggling-attempt/>.

¹⁶⁹ Yoav Zitun, *Gaza rocket hits Israel for third time since summer war*, Ynetnews (Dec. 19, 2014), available at <http://www.ynetnews.com/articles/0,7340,L-4605554,00.html>; *Rocket hits southern Israel as Independence Day ends*, Ynetnews (April 23, 2015), available at <http://www.ynetnews.com/articles/0,7340,L-4650066,00.html>.

¹⁷⁰ *Israel says arrests W. Bank Hamas cell planning attacks*, Yahoo News (Mar. 22, 2015), available at <http://news.yahoo.com/israel-says-arrests-w-bank-hamas-cell-planning-165529977.html>; *Israel says it busted Hamas cell planning attacks*, Associated Press (Nov. 27, 2014), available at <http://www.dailymail.co.uk/wires/ap/article-2851569/Israel-says-busted-Hamas-cell-planning-attacks.html>. See also *News of Terrorism and the Israeli-Palestinian Conflict (April 15-21, 2015)*, Meir Amit Intelligence and Terrorism

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diverting precious resources in the Gaza Strip to rearmament and reconstruction of the cross-border assault tunnels). Hence, the threat posed by Hamas's and other terrorist organisations' attacks remains.

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Information Center (April 28, 2015), available at http://www.terrorism-info.org.il/Data/articles/Art_20799/E_060_15_14914496.pdf.

¹⁷¹ See *Rocket Testing and Tunnel Reconstruction*, IDF (Dec. 22, 2014), available at <http://www.idfblog.com/blog/2014/12/22/hamas-reconstructing-tunnels-southern-israel/>; Yoav Zitun, *Senior IDF officer: Hamas will improve ahead of the next round*, Ynetnews (Jan. 20, 2015), available at <http://www.ynetnews.com/articles/0,7340,L-4617385,00.html>; Elior Levy, *Hamas reconstructing terror tunnels using Israeli materials*, Ynetnews (Dec. 19, 2014), available at <http://www.ynetnews.com/articles/0,7340,L-4605504,00.html>; *Palestinian Islamic Jihad Digs New Tunnels in the Gaza Strip*, MEMRI TV (Sept. 4, 2014), available at <http://www.memritv.org/clip/en/4478.htm>.