

ISRAEL/LEBANON

“OPERATION GRAPES OF WRATH” The Civilian Victims

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ABOUT THIS REPORT

This report is based on information collected in Lebanon and Israel by Human Rights Watch between May 1996 and August 1996, and additional research by Virginia N. Sherry, associate director of Human Rights Watch/Middle East. Yifat Susskind, a consultant to Human Rights Watch/Middle East, gathered information in Israel in June 1996. Sheila Carapico, a consultant to Human Rights Watch/Middle East, carried out fieldwork in Lebanon in May 1996. Ms. Sherry and Joel Campagna, a consultant to Human Rights Watch/Middle East, conducted a second mission in Lebanon in July and August 1996, investigating Operation Grapes of Wrath as well as human rights violations against Lebanese citizens and Palestinian refugees by Lebanese and Syrian authorities

Ms. Sherry is the author of this report, with the exception of the section entitled "Indiscriminate Attacks in Northern Israel," which was written by Ms. Susskind and edited by Ms. Sherry. The sections of the report entitled "Upper Nabatiyeh" and "Military Activities in South Lebanon" include material written by Ms. Carapico.

The report was edited by Eric Goldstein, acting executive director of Human Rights Watch/Middle East, and Michael McClintock, deputy program director of Human Rights Watch.

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Information included in the section of this report entitled "A Typology of Attacks in South Lebanon" first appeared in the Arabic-language daily newspaper *al-Hayat* (London) in a two-part article written by Ms. Sherry that was published on April 16 and April 17, 1997.

SUMMARY

In this report, Human Rights Watch examines the activities of Israeli military forces and Lebanese guerrillas during the escalation of military activities that raged in Lebanon and parts of northern Israel from April 11 to 27, 1996 - code-named "Operation Grapes of Wrath" by Israel. Israeli pilots carried out 600 air raids with fixed-wing aircraft and helicopters, and artillery units fired some 25,000 shells into Lebanese territory. Some 154 civilians were killed in Lebanon, and another 351 injured. The guerrillas fired 639 Katyusha rockets into Israel. There were no Israeli civilian deaths, although three Israeli women sustained serious injuries.

In any international armed conflict, the conduct of all sides is governed by international humanitarian law (the laws of war), which is codified in the 1949 Geneva Conventions and the First Additional Protocol to the Geneva Conventions (Protocol I).¹ Protocol I, which supplements the Geneva Conventions, contains detailed rules which implement the customary international law principles that a distinction should be made between combatants and civilians, and that civilians and civilian objects may not be targeted for attack. The rules of the protocol are designed to provide more effective protection to the civilian population against the effects of hostilities during international armed conflicts. Israel has not ratified Protocol I. However, many of the provisions of Protocol I reaffirm, clarify, or otherwise codify pre-existing, customary international humanitarian law. As such, these rules are binding on both the Israel military and Lebanese guerrilla forces, and in this report Human Rights Watch uses the rules to assess the military conduct of both sides.

In April 1996, Israel sought, as it did during what it called "Operation Accountability" in July 1993, to effect a massive displacement of the civilian population in south Lebanon.² This was a means of exerting pressure on the Lebanese government to disarm the guerrilla forces opposed to the Israeli occupation of south Lebanon and primarily affiliated with the Lebanese political movements Hizballah and Amal. The strategies used to force civilians to flee the south included: warnings to evacuate a large number of towns and villages in south Lebanon; threats that civilians unwilling or unable to leave would risk their lives; and statements that remaining civilians would be considered "connected with Hizballah" and thus without protection under the laws of war. Residents of the south learned of these strategies through explicit public statements made by Israeli military and government officials, and radio communiqués broadcast by Israel's proxy South Lebanon Army (SLA) throughout Operation Grapes of Wrath. In addition, travel on the main coastal highway linking Beirut with the south was prohibited in a southward direction, and announcements were made that Israeli forces would "strike at every suspicious vehicle." Taken together, these measures constituted acts or threats of violence the primary purpose of which was to spread terror among the civilian population, and thus a grave violation of international humanitarian law.³

Civilians remained in south Lebanon for a number of reasons. The poor, the elderly and the disabled simply lacked the wherewithal to leave. Some pregnant women also remained in their homes. Many tobacco-farming families were reluctant to abandon their crops during the brief two-week period when seedlings were bedded out and irrigated. Some families who had evacuated during Operation Accountability in 1993 refused to repeat what had been a difficult

¹ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) of June 8, 1977.

² For information about violations of international humanitarian law by both sides during Operation Accountability, see Human Rights Watch Arms Project and Human Rights Watch/Middle East, *Civilian Pawns: Laws of War Violations and the Use of Weapons on the Israel-Lebanon Border* (New York, Human Rights Watch: May 1996).

³ Article 51(2) of Protocol I prohibits attacks, and threats of attacks, which are launched or threatened with intent to terrorize the civilian population. It specifically provides: "Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited." This provision is intended to make clear that terror bombing violates the laws of war. On the other hand, the fact that attacks upon legitimate military targets may cause terror among the civilian population do not make such attacks unlawful. In addition, Article 75(2) of Protocol I prohibits collective punishments "at any time and in any place whatsoever."

experience, and others simply resented being ordered by the Israelis to leave their homes. But Israeli government and military officials made it clear throughout Operation Grapes of Wrath that Lebanese civilians would bear responsibility for their own deaths if they remained in towns and villages in south Lebanon that had been ordered evacuated by the Israeli military and the SLA.

The fact that Lebanese civilians were unwilling or unable to leave their homes according to timetables laid down by the Israeli military in no way absolved Israel of its duty under international humanitarian law to protect the civilian population from the dangers arising from military operations, nor did it give Israeli forces a license to attack without distinction or proper precautions homes and vehicles in Mansouri, Nabatiyeh, or elsewhere in south Lebanon.

After the warnings were issued, Israeli officials indicated that civilians who did not leave the designated towns and villages would lose the immunity and protection granted to them under the laws of war. Israeli government spokesperson Uri Dromi said on April 13: "We gave the residents advance warning to clear out so as not to get hurt. All those who remain there, do so at their own risk because we assume they're connected with Hizbollah." The next day, an Israel Defense Forces (IDF) spokesperson said: "Anyone remaining in Tyre or these forty villages [named in the warnings] ... is solely responsible for endangering his life." SLA radio reinforced these messages. A broadcast on April 13 had the following text:

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

This often-articulated position, inconsistent with international humanitarian law, was perhaps the most overlooked aspect of Israel's prosecution of Operation Grapes of Wrath. As the documentation in this report indicates, it led to Lebanese civilian casualties for which Israel bears responsibility.

The report contains the findings of Human Rights Watch's investigation of the circumstances of eight attacks in south Lebanon by Israeli forces, including the three incidents that yielded the highest civilian casualty tolls during the conflict: the helicopter gunship attack on an ambulance in the village of Mansouri on April 13, 1996, that killed two women and four children; the helicopter gunship attack on a house in the village of Upper Nabatiyeh on April 18, 1996, that killed nine civilians, including a newborn baby, six children under thirteen years old, and their mother; and the artillery barrage in Qana, also on April 18, in which over one hundred civilians lost their lives and an unconfirmed number were maimed or permanently injured. These eight attacks fall into four broad categories, each of which raises grave concerns about Israel's compliance with the laws of war:

- Attacks in which civilians were killed because Israel alleged either that towns and villages were empty of civilians, when this obviously was not the case, or that residents who had not evacuated designated towns and villages were "connected with Hizbollah" and thus legitimate military targets themselves.
- Indiscriminate and unlawful attacks on community-based medical services in Nabatiyeh provided by the Islamic Health Society, a nationwide health network administered by Hizbollah.⁴

⁴ Article 51(4) of Protocol I states that indiscriminate attacks are prohibited, and then provides definitions of such attacks. Article 51(4)(a) states that one type of indiscriminate attack is an attack that is "not directed at a specific military objective."

- Indiscriminate attacks on the vehicles of U.N. peacekeepers, which were part of a pattern during Operation Grapes of Wrath of Israel's attempt to impede U.N. peacekeepers' delivery of humanitarian assistance to civilians who were unable or unwilling to leave their homes.
- Artillery attacks near and on U.N. bases where civilians were openly sheltered, and the use during such attacks of anti-personnel shells designed to explode above the ground and spread shrapnel over a wide area in order to maximize casualties.

On April 18, 1996, the absence of precautions prior to the attack in close proximity to the town of Qana and the U.N. base located there, as well as the means and methods of attack chosen by the IDF (a sustained artillery barrage without lines of sight to the target), put Israel in violation of international humanitarian law. Israel did not fulfill its obligations to take constant care to spare the civilian population in the conduct of a military operation, nor did it take precautions to avoid or minimize civilian casualties. First, the artillery was fired without the customary warnings issued by the IDF in advance of attacks near positions of U.N. peacekeepers (known as the United Nations Interim Force in Lebanon, or UNIFIL). Second, the attack continued even after UNIFIL notified the Israeli military that the base was being shelled. Third, and perhaps most egregiously, Israel's claims that it had no knowledge that hundreds of civilians were sheltered at the Qana base are simply not credible. The decision of those who planned the attack to choose a mix of high-explosive artillery shells that included deadly anti-personnel shells designed to maximize injuries on the ground -- and the sustained firing of such shells, without warning, in close proximity to a large concentration of civilians -- violated a key principle of international humanitarian law.⁵ The particular tragedy at Qana was that this incident was not unique in its general features. As this report indicates, the Israeli military on previous occasions had violated the laws of war by not taking precautions to spare Lebanese civilians from death and injury prior to launching attacks, and indeed by showing an appalling willingness to conduct military operations in which civilians would bear the brunt of the suffering.

Military Operations in Northern Israel and South Lebanon by Lebanese Guerrilla Forces

Lebanese guerrillas who plan and carry out military activity against Israeli and SLA soldiers and other military targets in occupied south Lebanon are bound by the requirements of international humanitarian law. The guerrillas are in blatant violation of the laws of war when they deliberately target the civilian population inside Israel. Hizballah political leaders have consistently and publicly asserted that the guerrillas have a right to retaliate militarily against Israeli civilians in reprisal for Lebanese civilian deaths caused by Israeli military forces. At the beginning of Operation Grapes of Wrath, Hizballah's secretary-general, al-Sayyid Hassan Nasrallah, promised residents of northern Israel that reprisals would be forthcoming: "What concerns us is that when our civilians are touched your civilians will be touched, too, no matter what consequences they talk about. Yesterday our civilians were the target of aggression, a clear and flagrant aggression. We will respond to the aggression and will bombard the settlements in northern Palestine." On April 14, 1996, a Hizballah spokesman told the Reuter news agency in Beirut: "We are firing dozens of Katyusha rockets into Zionist settlements. The northern settlements will be hit continuously and heavily and we will transform northern Israel into hell."

Of the total of 639 Katyusha rockets were fired into Israeli territory during Operation Grapes of Wrath, about 28 percent were launched on April 14 (eighty-one), the day after an Israeli helicopter attacked an ambulance in Mansouri, killing six civilians, and on April 19 (ninety rockets), the day after nine civilians were killed in a house in Upper Nabatiyeh in the early morning and over one hundred civilians perished in the afternoon in Qana.

Ninety of the 639 Katyusha rockets fired into Israel landed in the vicinity of the northern Israeli city of Kiryat Shmona, fifty-eight of them in the city proper, all causing injury or property damage, according to Israeli sources interviewed by Human Rights Watch. The three serious Israeli civilian casualties during the conflict were all residents of Kiryat Shmona.

⁵ This principle, as articulated in Article 57(2)(a) (ii) of Protocol I, states that those who plan or decide upon attacks must "take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects."

There were direct hits on eleven houses in Kiryat Shmona, and seven of them sustained heavy damage. Two of the homes were totally destroyed, and two were completely destroyed by fires ignited when the Katyushas exploded. Another 250 homes were moderately damaged, and 1,757 were lightly damaged. Most structures that were not directly hit by rockets were damaged by shrapnel. Some 2,018 homes were damaged in the city, out of a total of 5,800 homes. The area of the Havradim housing development alone, home to 2,100 people, was hit eight times. Three hundred factories and manufacturing plants were also damaged, seven of them badly. Most of these buildings were located within the city's industrial zone, where rockets fell on April 19, April 23, and April 26.

Particularly at the beginning of Operation Grapes of Wrath, the Katyusha attacks appeared timed to yield maximum casualties: rockets were fired in the early morning, when civilians set out for work and school, and in the evening when residents returned home. But residents of the north told Human Rights Watch that after the first three days, the rocket fire became more sporadic. "Once they knew we were in the shelters, they fired at all hours to keep us guessing," said one resident of Kiryat Shmona. "This made it impossible to know when it might be safe to come out." The Katyushas typically were fired in volleys of between two to seven at a time. On April 16, for example, six rockets landed in a Kiryat Shmona neighborhood at the same time. The next day, pairs of rockets rained on different parts of the city throughout the day. "It's a war of nerves," another resident said. "You never know where or when the next Katyusha will land."

The rocket attacks terrorized the civilian population in northern Israel, and forced the displacement of tens of thousands of residents. Katyushas are inaccurate weapons with an indiscriminate effect when fired into areas where civilians are concentrated. The use of such weapons in this manner is a blatant violation of international humanitarian law. In addition, when guerrillas fired the rockets in reprisal for attacks by Israeli military forces that killed or injured Lebanese civilians, they committed another grave violation of the laws of war.⁶

IN SOUTH LEBANON, ONE OF THE MOST RELEVANT RULES IN THE CONTEXT OF THE GUERRILLAS' MILITARY OPERATIONS IS THE ONE THAT REQUIRES THEIR FORCES "TO THE MAXIMUM EXTENT FEASIBLE...AVOID LOCATING MILITARY OBJECTIVES WITHIN OR NEAR DENSELY POPULATED AREAS." THIS RULE CLEARLY ENCOMPASSES THE POSITIONING OF MORTARS AND KATYUSHA ROCKET LAUNCHERS WITHIN OR IN CLOSE PROXIMITY TO CONCENTRATIONS OF CIVILIANS, INCLUDING DISPLACED CIVILIANS SHELTERED ON U.N. BASES.

Because it positioned and launched rockets and mortar shells from sites close to the Qana base on April 18, Lebanese guerrilla forces also bear responsibility for the civilian casualties caused by the massive Israeli retaliatory fire. The burden is on the guerrillas to explain the military necessity that required its forces to carry out military operations at these specific locations in such close proximity to a large number of civilians, particularly given their long experience with the predictability of Israeli counterfire in such circumstances. The rules of customary international humanitarian law require all parties to a conflict to take constant care to spare civilians in the conduct of military operations. In the days and hours leading up to the Qana massacre, the guerrillas exhibited a willful disregard for the safety of the civilian population.

RECOMMENDATIONS

On the basis of the findings in this report, and our earlier investigation of violations of international humanitarian law during Operation Accountability in July 1993, Human Rights Watch calls on all parties directly or indirectly involved in the ongoing military conflict in south Lebanon and northern Israel to undertake strenuous efforts in order to ensure that the civilian population on both sides is not targeted for attack.

⁶ Article 51(6) of Protocol I states: "Attacks against the civilian population or civilians by way of reprisals are prohibited."

⁷ Article 58(b) of Protocol I. Article 58(c) also requires that parties to the conflict, to the maximum extent feasible, shall "take other necessary precautions to protect the civilian population, individual civilians and civilian objects under their control against the dangers resulting from military operations."

To the Government of Israel

- Issue clear written instructions to the IDF to halt indiscriminate attacks on civilians and civilian objects in south Lebanon.
- Further instruct the IDF to attack only military objectives. In cases where there is doubt about a civilian object being used for military purposes, the IDF should be instructed to presume that the object is civilian and thus immune from attack, as required by international humanitarian law.
- Ensure that the IDF, prior to firing at targets in Lebanon from the air, sea or ground, takes proper precautions to avoid or minimize harm to civilians, as required by the laws of war.
- Discontinue the practice of firing antipersonnel weapons -- including but not limited to proximity-fuzed artillery shells -- in close proximity to concentrations of civilians.
- Ensure that the South Lebanon Army (SLA), which is trained and supplied by Israel, acts in strict adherence to international humanitarian law. SLA officers and soldiers should receive ongoing training with respect to the laws of war, particularly those rules that provide protection to civilians against the dangers arising from military operations.
- Investigate and hold fully accountable IDF officers and soldiers who violate the laws of war in the conduct of military operations.
- Appoint an independent commission of inquiry to investigate fully the circumstances of the attack on the ambulance in Mansouri on April 13, 1996, and the attacks on Upper Nabatiyeh and Qana on April 18, 1996. The findings of this commission should be made public, and those military planners and decision makers found to have violated the laws of war should be held fully accountable for their actions.

To Lebanese guerrilla forces and Hizballah

- Refrain from carrying out indiscriminate attacks on Israeli civilians, and disavow the long-standing policy of reprisals against Israeli civilians.
- Publicly pledge to abide by the laws of war in carrying out military operations in south Lebanon, particularly those provisions which offer protection to civilians from the dangers arising from military operations.
- Avoid locating military objects within or near areas that are in close proximity to the Lebanese civilian population, and refrain from launching attacks from these areas.
- Ensure that Lebanese guerrilla forces carry out military activities in Lebanon in strict adherence to international humanitarian law. Provide military commanders and soldiers with ongoing education and training in international humanitarian law, particularly those rules that provide protection to the civilian population against the dangers arising from military operations.
- Investigate and hold fully accountable military commanders and soldiers who violate the laws of war in the conduct of military operations.

To the Government of Lebanon

- Use all possible means -- including persistent public pressure by the most senior Lebanese government officials, including the minister of defense -- to ensure that Lebanese guerrilla forces implement the recommendations listed above.

- Block the transshipment of Katyusha rockets to Lebanese guerrilla forces until there is a halt to the use of these rockets for reprisals and indiscriminate attacks against the Israeli civilian population.

To the South Lebanon Army (SLA)

- Halt all military activities that directly or indirectly target or indiscriminately attack civilians and civilian objects in south Lebanon.
- Publicly pledge to abide by the laws of war in the conflict in south Lebanon, especially with regard to the targeting of civilians, and publicly disavow policies and practices of reprisals against civilians by SLA forces.
- Ensure that SLA soldiers and officers receive ongoing training in international humanitarian law, particularly those rules which protect civilians against the dangers arising from military operations.
- Investigate and hold fully accountable SLA officers and soldiers who violate the laws of war in the conduct of military operations.

To the Government of the United States

- Seek public and written assurances from the government of Israel that U.S.-supplied or U.S.-designed weapons are not used by Israeli forces in Lebanon in violation of international humanitarian law.
- Monitor Israel's use in Lebanon of all U.S.-manufactured and U.S.-supplied arms, including fixed wing aircraft, helicopters and artillery, and issue periodic public reports about the use and misuse of such arms, including incidents in which violations of international humanitarian law caused Lebanese civilian casualties.
- Publicly condemn actions by Israeli and Lebanese guerrilla forces that violate international humanitarian law and put the civilian population on both sides of the border at risk.
- Use all possible means -- including linkages of aid and supply to Israeli of fighter aircraft, attack helicopters, and artillery to Israel -- to persuade Israel to implement the recommendations in this report.
- Use all possible means to persuade the government of Syria to halt the transshipment of Katyusha rockets through its territory until Lebanese guerrillas and Hizballah political leaders publicly disavow and discontinue their stated policy of carrying out reprisal attacks against Israeli civilians.

To the European Union and Member States

- Use all possible means to persuade Israel to implement the recommendations in this report, and make clear that violations of international humanitarian law by Israeli forces in Lebanon shall constitute breaches of the human rights provisions of the EU-Israel Association Agreement, a wide-ranging trade, aid and security cooperation agreement presently being ratified by Member States.
- Use all possible means to persuade the government of Iran to stop providing Katyusha rockets to Lebanese guerrillas forces until Hizballah's political leaders publicly disavow the current policy of targeting Israeli civilians in reprisals and indiscriminate attacks.
- Use all possible means to persuade the government of Syria to halt the transshipment of Katyusha rockets through its territory until Hizballah political leaders publicly disavow the current policy of targeting Israeli civilians in reprisals and indiscriminate attacks.

To the Government of Syria

- Use all possible means to ensure that Lebanese guerrilla forces and Hizballah implement the recommendations above.
- Halt the transshipment of Katyusha rockets through Syrian territory until Hizballah's political leaders make a specific and public commitment that Lebanese guerrillas forces under its control or influence will cease targeting Israeli civilians in indiscriminate or reprisal attacks.

To the Government of Iran

- Use all possible means, including linkage of aid, to ensure that Lebanese guerrilla forces and Hizballah implement the recommendations above.
- Stop the transfer of Katyusha rockets to Lebanese guerrilla forces until Hizballah's political leaders make a specific and public commitment that forces under its control or influence will refrain from targeting Israeli civilians in indiscriminate or reprisal attacks.

INTRODUCTION

THE MONTHS AND WEEKS PRIOR TO ISRAELI'S LAUNCH OF OPERATION GRAPES OF WRATH ON APRIL 11, 1996, WERE NOT PERIODS OF CALM FOR CIVILIANS IN SOUTH LEBANON AND NORTHERN ISRAEL. AS HAS BEEN THE CASE HISTORICALLY IN THE ONGOING MILITARY CONFLICT BETWEEN LEBANESE GUERRILLAS AND ISRAELI FORCES AND THEIR SOUTH LEBANON ARMY (SLA) PROXIES IN ISRAELI-OCCUPIED SOUTH LEBANON, IT WAS IN LEBANON WHERE THE BULK OF THE MILITARY ACTIVITY AND CIVILIAN CASUALTIES OCCURRED. BETWEEN JANUARY 22, 1996 AND APRIL 10, 1996, UNITED NATIONS PEACEKEEPERS IN LEBANON (KNOWN AS THE UNITED NATIONS INTERIM FORCE IN LEBANON, OR UNIFIL) RECORDED 10,000 ARTILLERY, MORTAR, AND TANK ROUNDS FIRED BY ISRAELI AND SLA FORCES IN RESPONSE TO ATTACKS BY LEBANESE GUERRILLAS.⁸ MILITARY ACTIVITIES BY THE GUERRILLAS IN SOUTH LEBANON WERE EXTREMELY LIMITED IN JANUARY 1996 BUT, ACCORDING TO UNIFIL RECORDS, THEY MOUNTED TWENTY-FOUR OPERATIONS IN FEBRUARY 1996, EIGHTEEN IN MARCH 1996, AND SIX IN THE FIRST TEN DAYS OF APRIL 1996.⁹

IN MARCH 1996, OPERATIONS BY THE GUERRILLAS DEEP INSIDE OCCUPIED LEBANON RESULTED IN MAJOR CASUALTIES FOR ISRAELI FORCES: FOUR SOLDIERS WERE KILLED AND NINE WOUNDED ON MARCH 4, ONE WAS KILLED AND FOUR WOUNDED ON MARCH 10, EIGHT SOLDIERS WERE WOUNDED ON MARCH 14, AND AN OFFICER WAS KILLED AND SEVEN SOLDIERS WOUNDED ON MARCH 20. AS A RESULT OF THESE ATTACKS, THE MOOD ON BOTH SIDES OF THE BORDER BECAME QUITE TENSE. THE TENSION WAS ONLY HEIGHTENED BY THE DEADLY SUICIDE BOMBINGS CARRIED OUT BY PALESTINIAN MILITANTS INSIDE ISRAEL, WHICH CLAIMED THE LIVES OF SIXTY-TWO PEOPLE. THE CRISIS ESCALATED WHEN LEBANESE CIVILIANS WERE KILLED ON MARCH 30 AND APRIL 9, IN TWO SEPARATE INCIDENTS IN SOUTH LEBANON, AND GUERRILLAS, IN REPRISAL, FIRED KATYUSHAS INTO NORTHERN ISRAEL.

ACCORDING TO UNIFIL, ON MARCH 30 TWO MEN WHO HAD BEEN WORKING ON A WATER TOWER IN YATER, A VILLAGE LESS THAN TWO KILOMETERS FROM THE BORDER OF ISRAEL'S SELF-DESCRIBED "SECURITY ZONE," WERE KILLED, AND ANOTHER WAS WOUNDED, BY A MISSILE FIRED BY THE IDF. IN REPRISAL, GUERRILLAS FIRED OVER TWENTY KATYUSHA ROCKETS INTO NORTHERN ISRAEL LATE THE SAME NIGHT, WOUNDING ONE WOMAN.¹⁰ AN INITIAL ISRAELI REPORT IDENTIFIED THE TWO DEAD MEN IN YATER AS "HIZBALLAH TERRORISTS RATHER THAN INNOCENT CIVILIANS," AND SAID THAT "THEY WERE STANDING AMONG A GROUP OF ARMED MEN."¹¹ SOON THEREAFTER, HOWEVER, THE ISRAELI GOVERNMENT ACKNOWLEDGED THAT THE TWO MEN WERE IN FACT CIVILIANS AND THAT THE ATTACK HAD BEEN A MISTAKE.¹²

⁸U.N. Security Council, Report of the Secretary-General on the United Nations Interim Force in Lebanon (for the period from 22 January 1996 to 20 July 1996), S/1996/575, 20 July 1996, para. 7. Hereinafter UNIFIL Report.

⁹ UNIFIL Report, para. 4.

¹⁰Joel Greenberg, "An Attack on Israel Brings Woes To Peres," *New York Times*, April 10, 1996.

¹¹Israel TV, Channel 1, Jerusalem, March 30, 1996, as reported by BBC Monitoring Summary of World Broadcasts, April 1, 1996.

¹² "We aren't speaking of terrorists, apparently it was two civilians. Israel said it was a mistake," then-Prime Minister Shimon Peres said on March 31. Amy Michaels. "Second Rocket Barrage Hits Northern Israel." Reuter. March 31, 1996.

LEBANESE GUERRILLAS STRUCK AGAIN AT THE ISRAELI CIVILIAN POPULATION ON APRIL 9, AFTER A LEBANESE BOY WAS KILLED AND THREE OTHERS, TWO OF THEM CHILDREN, WERE INJURED WHEN A ROADSIDE BOMB EXPLODED ON APRIL 9 NEAR BRACHIT, ANOTHER VILLAGE EXTREMELY CLOSE TO THE FRONT LINE.¹³ IN REPRISAL, AT 7:15 ON THE MORNING OF APRIL 9, FOURTEEN KATYUSHA ROCKETS WERE FIRED INTO NORTHERN ISRAEL. ACCORDING TO INFORMATION COLLECTED BY HUMAN RIGHTS WATCH, SEVEN OF THE ROCKETS LANDED IN KIRYAT SHMONA, AND TWO HOMES THERE SUSTAINED DIRECT HITS: FIVE ISRAELIS WERE WOUNDED, ONE OF THEM SERIOUSLY, AND THIRTY-EIGHT PEOPLE WERE TREATED FOR SHOCK.¹⁴ ISRAELI MILITARY RETALIATION IN SOUTH LEBANON FOLLOWED. ACCORDING TO UNIFIL, "ISRAELI AIRCRAFT DROPPED NINE BOMBS ON THE MAJDAL SILM-SULTANIYEH AREA, AND ISRAELI ARTILLERY FIRED SOME 250 ROUNDS [OF] ARTILLERY TOWARD THE SAME AREA."¹⁵

IN ISRAEL, THERE WAS A CLAMOR FOR A MILITARY RESPONSE. "ISRAEL MUST NOT RESTRAIN ITSELF, AND IT HAS TO TEACH HEZBOLLAH A LESSON THAT THE LIVES OF OUR CITIZENS ARE NOT FAIR GAME," MINISTER OF PUBLIC SECURITY MOSHE SHAHAL SAID DURING A VISIT TO KIRYAT SHMONA, WHERE, ACCORDING TO THE *NEW YORK TIMES*, HE WAS JEERED. BENJAMIN NETANYAHU, WHO WAS COMPETING AT THE TIME FOR THE POST OF PRIME MINISTER, SAID THIS IN KIRYAT SHMONA: "A CITY IN NORTHERN ISRAEL IS ABSORBING KATYUSHAS AND THERE'S NO RESPONSE. THIS IS SIMPLY IMPOSSIBLE. THIS HAS TO BE STOPPED."¹⁶ THE SEVENTEEN-DAY MILITARY ASSAULT ON LEBANON, CODE-NAMED OPERATION GRAPES OF WRATH BY ISRAEL, BEGAN TWO DAYS LATER.

ISRAEL'S MILITARY OPERATIONS IN LEBANON

During Operation Grapes of Wrath, Lebanon felt the full force of Israeli military power. In seventeen days, Israeli pilots carried out 600 air raids with fixed-wing aircraft and helicopters, and artillery units fired some 25,000 shells into Lebanese territory. Israel controlled the skies over Lebanon, and its pilots and aircraft suffered no casualties or damage. In addition, according to UNIFIL, the IDF "used long-range patrols which moved forward of [Israeli occupied Lebanon] and, in two places, which were later notified to UNIFIL, planted mines and booby-traps."¹⁷ The Lebanese military reported that 154 civilians in Lebanon were killed, and another 351 injured.¹⁸ As was the case during Operation Accountability in July 1993, in which some 120 Lebanese civilians were killed, the Israeli military once again committed grave violations of international humanitarian law, which prohibits the targeting of civilians.¹⁹

¹³ Joel Greenberg, "An Attack on Israel Brings Woe to Peres," *New York Times*, April 10, 1996. It was unclear who had planted the bomb. According to UNIFIL: "Hizbullah claimed to have collected evidence that IDF had planted the explosives. The Israeli authorities, for their part, denied any involvement and suggested that the explosions had been caused by old mines. UNIFIL investigated the explosion and found that it had been caused by four serially connected and booby-trapped roadside bombs; UNIFIL could not determine who had placed them." UNIFIL Report, para. 6.

¹⁴ Human Rights Watch interview with Yedidya Freudenberg, head of emergency services in the Kiryat Shmona municipality, Kiryat Shmona, Israel, June 1996. See "Indiscriminate Attacks in Northern Israel," below, for additional information.

¹⁵ UNIFIL Report, para. 6.

¹⁶ Joel Greenberg, "An Attack on Israel Brings Woe to Peres," *New York Times*, April 10, 1996.

¹⁷ UNIFIL Report, para. 16.

¹⁸ Amnesty International, "Israel/Lebanon: Unlawful Killings During Operation 'Grapes of Wrath,'" July 1996, AI Index: MDE 15/42/96, p. 4.

¹⁹ See Human Rights Watch, *Civilian Pawns*, for information about violations of international humanitarian law by both sides during Operation Accountability.

The public statements of Israeli government and military officials sent mixed messages about the manner in which military operations were being conducted. Then-Prime Minister Shimon Peres told the Israeli parliament on April 22: "The government, in its instructions to the IDF on the operation, ordered it not to harm civilians or civilian targets, and to concentrate solely on Hizballah installations and on the terrorists themselves."²⁰ The intentions reflected in this statement were in strict conformity with the laws of war. Throughout the operation, however, other public statements by senior officials indicated that Israel had less than full respect for bedrock principles of international humanitarian law which require that the civilian population as such, as well as individual civilians, shall not be the object of attack; prohibit acts or threats of violence intended to terrorize the civilian population; and require that attacks be directed only at specific military objectives.²¹ In addition, at least one Israeli government official publicly announced that Israeli military forces would engage in reprisals against Lebanese civilians, actions which are prohibited under the laws of war. Citing decisions made by the Israeli cabinet, Ambassador Gad Yaacobi, then-permanent representative of Israel to the United Nations, informed the U.N. Security Council that: "If civilian facilities in Israel are hit, there will be no immunity from strikes on corresponding facilities in Lebanon."²²

The launch of Operation Grapes of Wrath, in the early morning hours of April 11, 1996, brought attacking Israeli aircraft to the skies over Beirut and the Bekaa valley, as well as south Lebanon. Statements by Israeli government and military officials left the clear impression that the civilian population generally, as well as Lebanon's economy, would be at risk during the military conflict. Israeli government and military officials indicated publicly that Lebanese civilians would face reprisals for Katyusha rockets fired by guerrillas into northern Israeli settlements. "No place in Lebanon and no sort of Hizballah activity is immune from attack so long as in Kiryat Shemona people are in shelters or have to rush to the shelters," Foreign Minister Ehud Barak said on Israel Defense Forces (IDF) radio on April 11.²³ An Israeli army communiqué, issued the same day, reinforced this message: "Every village from the area of which Katyusha rockets will be fired is risking retaliation. Civilians who live next to Hizballah activist centers and homes may be hurt."²⁴ Similar messages were carried on the radio station of Israel's proxy South Lebanon Army (SLA) throughout the conflict. An SLA communiqué broadcast on April 11 closed with the words "unless calm prevails in northern Israel and the border region, it will not prevail anywhere else in Lebanon."²⁵ Another SLA broadcast on April 17 ended with this text: "The calm and security of the Lebanese citizen are [the Lebanese government's] responsibility. If Hizballah's terrorism and terrorist operations against Marj'uyun and Qiryat Shemona do not stop, calm will not prevail in Tyre, Sidon, Ba' labakk, and Beirut."²⁶

²⁰ Address by Prime Minister Shimon Peres to the Knesset on the IDF Operations in Lebanon, April 22, 1996, Information Division, Israel Foreign Ministry, Jerusalem.

²¹ Military objectives are defined as "objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage." Article 52(2), Protocol I.

²² Statement of Ambassador Gad Yaacobi in the U.N. Security Council, April 15, 1996. Information Division, Israel Foreign Ministry, Jerusalem, p. 5.

Article 51(6) of Protocol I states: "Attacks against the civilian population or civilians by way of reprisals are prohibited."

²³ Howard Goller, "Israel Strikes in Lebanon, Says No Place Immune," Reuter, Jerusalem, April 11, 1996.

²⁴ Ibid.

²⁵ Voice of the South, Kafr Killa, April 11, 1996, as reported in Foreign Broadcast Information Service (FBIS), April 12, 1996, p. 45.

²⁶ Voice of the South, Kafr Killa, April 17, 1996, in FBIS, April 17, 1996, p. 61.

Israel not only was determined to stop the firing of Katyusha rockets into northern Israel, but also had a broader political goal of pressuring the Lebanese government to disarm completely Hizballah's military wing, known as the Islamic Resistance, whose fighters since 1990 carried out a steadily increasing number of attacks against Israeli and SLA military forces in occupied south Lebanon.²⁷ Throughout Operation Grapes of Wrath, Israel exerted this pressure on the Lebanese government in the form of specific threats to target Lebanon's recovering economy, and a parallel strategy of terrorizing civilians, forcing them to flee the south and converge in large numbers -- displaced and homeless -- on Beirut.

Threats to Attack Lebanon's Economy and Infrastructure

On April 11, the opening day of Israel's military operation, Deputy Defense Minister Ori Orr suggested clearly that the Lebanese economy would be at risk during the conflict: "They now have to consider if they want Lebanon to continue to develop at the rate they are always boasting about, or if investment in Lebanon will stop, and Lebanon will return to its plight of a few years ago."²⁸ In a telephone interview on April 11, he described the attack on Beirut that day as having a two-part message. First, he said, "a purely military target belonging to Hizballah" was hit, but then added:

Beirut itself must realize that things will not be quiet there if the situation is also not calm in Qiryat Shemona. This is part of our message....it is a signal [to the Lebanese government]....[T]he Lebanese government can do more. It must understand that Lebanon's gross domestic product will not grow. The Lebanese prime minister...must understand that Lebanon is one country and that he is responsible not only for Beirut but for south Lebanon as well....The IDF is always capable of disrupting life in Lebanon.²⁹

The next day, Prime Minister Peres also threatened to bring military operations to Beirut in response to the attacks on northern Israel. "Unless the Lebanon government will be in a position to take charge of the situation in south Lebanon, the cost of the lack of order will be paid, alas, by the people of Lebanon," he said. "I want to make clear that if they think that Kiryat Shemona is an inviting weakness, Beirut can easily become as well an inviting weakness," he told reporters.³⁰

²⁷ "Since 1990, Hizballah has dramatically increased the tempo of military operations against Israeli and SLA units operating in the 'security zone.' By these operations, Hizballah seeks to force a unilateral Israeli withdrawal from the zone, while improving its standing among Lebanon's Shiites at the expense of its main rival, Amal. Hizballah carried out 19 attacks on Israel and SLA personnel in the zone in 1990, 52 attacks in 1991 (eclipsing Amal in the process), 63 attacks in 1992, 158 attacks in 1993 (not including Operation Accountability), 187 attacks in 1994, and 344 attacks in 1995." The Washington Institute for Near East Policy, "Hizballah Operations: Past Patterns, Future Prospects," May 7, 1996.

²⁸ Andrew Tarnowski, "Israeli Blitz Could Smash Lebanon's Hope of Rebirth," Reuter, April 12, 1996.

²⁹ Voice of Israel, Jerusalem, April 11, 1996.

³⁰ Colleen Siegel, "Peres Says Raids Will Go On as Long as Necessary," Reuter, April 12, 1996.

Following the first Israeli attack, on April 14, on Beirut's electricity infrastructure, Maj. Gen. Herzl Bodinger, the commander of the Israeli Air Force, warned that it was "just a hint of what we can do."³¹ After a second attack on the largest electrical transformer station in Lebanon on April 15, Avi Pazner, the Israeli ambassador to France, was even more explicit, stating that Israel's intent was to force the Lebanese government to disarm Hizballah guerrillas:

[W]e would like to bring about a situation in which the Lebanese Government realizes that its support for Hizballah is costing it too high a price and does with Hizballah what it did with the other militias after 1989, in other words disarms Hizballah -- as the Maronite Phalangist militias were disarmed, as the Druze and the Sunnis were disarmed, Hizballah must now be disarmed.³²

Lebanese Prime Minister Rafiq Hariri acknowledged in an interview with *Le Monde* that Israel's objective was "to put pressure on [the Lebanese government] to disarm Hizballah. Which we shall not do." He elaborated: "In the long term the solution is for Israel to withdraw from Lebanese territory. Then Lebanon would be responsible for its own security in that part of its territory bordering on Israel. The Israelis are now asking us to disarm Hizballah...while they themselves are continuing to occupy our territory. This is similar to having asked de Gaulle to disarm the [French] resistance."³³ Commenting on the Israeli attack on the Jumhur electrical transformer station on April 14, Prime Minister Hariri said: "[T]he bombardment of Jamhur shows that they want to destroy Lebanon's infrastructure at a time when this country has started reconstructing itself."³⁴

The relevance of the Israeli threat to target Lebanon's economy must be considered in light of the country's efforts to recover from the massive destruction that occurred during the civil war of 1975-90. The state's Council for Development and Reconstruction had planned about \$18 billion in public investment over the thirteen-year period from 1995 to 2007, including projects in the following sectors: electricity, post and telecommunications, roads and highways, education, public health, water supply, solid waste, public transportation, airports and ports, agriculture, and industry, oil and gas.³⁵ Lebanon's electricity infrastructure, in particular, sustained tremendous damage during the civil war.³⁶ Uri Lubrani, the coordinator of Israeli government activities in Lebanon, was asked the purpose of the Israeli attack on Lebanon's electricity grid in a television interview. His reply indicated that infrastructure had been targeted for political ends:

³¹ John Daniszewski and Marjorie Miller, "Lebanon Shelling Swells Exodus," *Los Angeles Times*, April 15, 1996.

Israeli Air Force jets attacked and damaged the electrical transformer station in the al-Jumhur area southeast of Beirut on the early afternoon of April 14. At a news conference in northern Israel that day, Chief of Staff Lt. Gen. Shahak said that the Jumhur station was targeted "[a]fter the Qiryat Shemona electricity grid was damaged last night." IDF Radio elaborated, adding other reasons for this attack: "The IDF sources stress that the attack on the power plant came as a response to the harm done to the Qiryat Shemona electric grid yesterday and the damage caused to the civilian settlements in the Galilee Panhandle and the Western Galilee all day today." IDF Radio, Tel Aviv, April 14, 1996, in FBIS, April 15, 1996, p. 33.

³² Europe No. 1 Radio, Paris, April 15, 1996, in FBIS, April 16, 1996, p. 39. Israeli Air Force jets attacked the Bsalim station at about 5:30 in the afternoon on April 15, causing extensive damage. Bsalim is located in the hills some five miles northeast of Beirut.

³³ U.N. Security Council Resolution 425 of 1978, which called on Israel to "withdraw forthwith its forces from all Lebanese territory," has not been implemented.

³⁴ *Le Monde* (Paris), April 16, 1996, in FBIS, April 17, 1996, p. 58.

³⁵ For additional information, see Republic of Lebanon, Council for Development and Reconstruction, "Progress Report," August 1995.

³⁶"Lebanon has available 1350MW of installed capacity including thermal and hydro power plants. Power facilities sustained severe damage during the [civil] war period and suffered from absence of maintenance. Of this total capacity of 1350MW only 500 to 600MW were available in 1993, resulting in severe rationing to the consumer of six hours per day. The transmission and distribution networks were also severely disrupted." *Ibid.* p. 27.

[W]e have said that we are going to hit Lebanese government infrastructure, just to drive the point home. They've got to stand up to their responsibility to their people. They have got to do something about terror being directed from their territory to ours....Our people have been subjected to Katyusha fires....There came a point when we had to say enough is enough, and to rouse the attention of the government of Lebanon to its responsibility. They should be responsible. If they have an agreement with Syria they should go to Syria and tell them that it's time that they restrained Hizballah.³⁷

Israeli Foreign Minister Baraq noted that Israel also sought to send a political message to the Syrian government, and to demonstrate that it too had "something to lose." He said this on April 15:

I think it is clear to the Syrians that their years-long investments in Lebanon, including the establishment of the current government and bringing about relative prosperity and the beginning of the reconstruction of Beirut, are now in jeopardy as a result of, among other things, our actions against the electricity infrastructure of Beirut. I think all these points illustrate our ability to act against the Syrians and the fact that the Syrians have something to lose.³⁸

Terrorizing and Targeting the Civilian Population

As Israel did during Operation Accountability in 1993, it sought once again to effect a massive displacement of the civilian population in south Lebanon, as another means of exerting pressure on the Lebanese government to disarm the guerrillas. The strategies used to force civilians to flee the south included: warnings to evacuate a large number of towns and villages in south Lebanon; threats that civilians unwilling or unable to leave would risk their lives; and statements that remaining civilians would be considered "connected with Hizballah" and thus without protection under the laws of war. Residents of the south learned of these strategies through explicit public statements made by Israeli military and government officials, and SLA radio communiqués broadcast throughout Operation Grapes of Wrath. In addition, travel on the main coastal highway linking Beirut with the south was prohibited in a southward direction, and announcements were made that Israeli forces would "strike at every suspicious vehicle."

Taken together, these threats of attacks on civilians, thinly veiled as warnings to them, appeared expressly intended to terrorize the civilian population in the south. This conclusion is reinforced by the correspondance of broadcast threats with the actual pattern of attacks on civilians during the course of the military operations. The measures taken to generate intense fear in the civilian population appear to have been undertaken as a means to a larger end -- to terrorize the population into flight to the north and, by so doing, to bring pressure upon the Lebanese government to disarm the guerrillas. The means and methods to achieve this end, however, were in grave violation of the prohibition by the laws of war of acts or threats of violence the primary purpose of which is to spread terror among the civilian population.³⁹

³⁷ Channel 4 Television Network, London, April 16, 1996, in FBIS, April 17, 1996, p. 44.

³⁸ Israel TV Channel 1, Jerusalem, April 15, 1996, in FBIS, April 16, 1996, p. 37.

³⁹ Article 51(2) of Protocol I prohibits attacks, and threats of attacks, which are launched or threatened with intent to terrorize the civilian population. It specifically provides: "Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited." This provision is intended to make clear that terror bombing violates the laws of war. On the other hand, the fact that attacks upon legitimate military targets may cause terror among the civilian population do not make such attacks unlawful. In addition, Article 75(2) of Protocol I prohibits collective punishments "at any time and in any place whatsoever." Because the concept of collective punishment under the laws of war is broadly formulated, it can be argued that the impact of the warnings, forcing hundreds of thousands of civilians to leave their communities, constituted a form of collective punishment.

Warnings to Evacuate

On the morning of April 12, SLA radio began to broadcast communiqués that ordered residents of about forty towns and villages in south Lebanon to leave within four hours, by 2:30 in the afternoon.⁴⁰ The deadline was later extended by two more hours. At a press conference in Tel Aviv on April 12, Israeli Air Force commander Maj. Gen. Bodinger said: "At 1630, after a six-hour ultimatum given by the IDF to local residents to leave their villages where terrorists operate, we started to raid Hizballah targets and installations inside the villages. Since then and until now [four hours later], 13 targets have been raided, and we will continue our raids into the night as necessary. At the same time, patrols are being conducted over the area. An aerial curfew has been declared, and any vehicle or movement on the roads in a specified area in south Lebanon will be destroyed."⁴¹

On April 14, an IDF spokesman announced that residents of Tyre and forty other villages had until 11:00 that morning to evacuate: "Anyone remaining in Tyre or these 40 villages after this hour is solely responsible for endangering his life."⁴² A British journalist, writing from Tyre, described the manner in this city of 120,000 was ordered evacuated:

The night before all the citizens of this ancient port city had gone to sleep in their own beds. It was at one in the morning that the Israelis issued Communiqué Number 9....It warned the people of Tyre, along with the inhabitants of some 28 nearby villages, to be out of the area by 9 am yesterday -- or risk losing their lives.

There was not enough time to meet the first deadline. The Israelis extended it and the exodus reached its climax about 11 am, one hour before the new deadline. Then they extended it twice again, first to 3 pm, then to 6 pm. But this last warning was even broader in scope. It no longer listed specific localities were the Israelis would attack. Now it was simple and all-embracing. Everyone who remained south of the Litani river, which flows into the sea a few miles north of Tyre, would do so at the risk of death.⁴³

SLA radio continued to "broadcast threats of further bombardments, set deadlines for the inhabitants to leave and stated that once the deadline had passed IDF would regard all who remained as legitimate targets," UNIFIL reported.⁴⁴ "As a result of these threats and the Israeli bombardment, about a quarter of the inhabitants, more than 100,000, left UNIFIL's area of operations and Tyre. Around 5,000 persons sought refuge inside UNIFIL positions and at its logistic base in Tyre," UNIFIL added.⁴⁵

⁴⁰ Voice of the South, Kafr Killa, Communiqués No. 3, No. 5, and No. 6, April 12, 1996, in FBIS, April 12, 1996, pp. 50-51. Among the villages named in these first communiqués were those where, later during Operation Grapes of Wrath, civilians were killed (Mansouri and Nabatiyeh), a hospital and an ambulance were attacked (Nabatiyeh and Aabba, respectively), and a U.N. base shelled (Majdal Zoun). These incidents are discussed in the section of this report entitled "A Typology of Attacks in South Lebanon," below.

⁴¹ IDF Radio, Tel Aviv, April 12, 1996, in FBIS, April 15, 1996, p. 13.

⁴² "Israel Extends Deadline for Tyre Evacuation," Reuter, April 14, 1996.

⁴³ David Hirst, "Tyre Is Ghost Town as Residents Flee Israeli Vengeance," *Guardian* (London), April 15, 1996.

⁴⁴ UNIFIL Report, para. 12.

⁴⁵ *Ibid.*

The SLA broadcasts were followed by bombardment of the perimeters of the designated villages and along the roads on which civilians were expected to travel. In Majd Haruf, a shop owner told Human Rights Watch that the warning for that area was issued "on Saturday [April 13], to leave within two hours. Then they extended it another two hours. But during those four hours, the edges of the village were bombed to frighten people out. No one was injured, thank God, but most of us left, maybe 85 percent."⁴⁶ Later in the operation, the roads to villages were bombed. According to a UNIFIL official interviewed by Human Rights Watch, after Qana was attacked on April 18, Israeli aircraft dropped 500-pound crater bombs *ON THE ROADS LEADING TO VILLAGES, CUTTING OFF ACCESS FOR RESIDENTS WHO REMAINED AND MAKING DIFFICULT THE DELIVERY OF HUMANITARIAN ASSISTANCE.*⁴⁷

The warnings continued to be broadcast on a regular basis by SLA radio until the closing days of Operation Grapes of Wrath. These communiqués did have their intended effect: by April 25, the U.N. estimated that at least 400,000 people, or one-eighth of Lebanon's population, had been internally displaced, creating a "tremendous humanitarian crisis."⁴⁸

Warnings by an attacker to the civilian population are encouraged under international humanitarian law.⁴⁹ However, warnings that are intended to threaten the civilian population violate the laws of war, as explained below.

Threats Directed at Civilians

⁴⁶ Human Rights Watch interview, Majdal Haruf, Lebanon, May 1996

⁴⁷ Human Rights Watch interview, Tyre, Lebanon, August 1996. See "Targeting Vehicles of U.N. Peacekeepers," below, for documentation on how UNIFIL crews repairing roads came under fire.

⁴⁸ Press briefing by Yasushi Akashi, U.N. under-secretary-general for humanitarian affairs, April 25, 1996. Akashi "said access to the South was becoming extremely precarious, even dangerous. The roads had been cut off, and there was tremendous difficulty in transporting humanitarian supplies."

⁴⁹ Article 57 (2)(c) of Protocol I recommends: "[E]ffective advance warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit."

Despite the huge outflux of civilians from the south, SLA radio continued to terrorize those that remained, proclaiming that “suspicion” alone would be the basis for attacking homes and vehicles. It is illegal under the laws of war to mount attacks on civilians and civilian objects on the basis of suspicion, or on the basis of an assumption that civilians are “connected” with armed fighters.⁵⁰ In flagrant disregard of these international humanitarian law standards, SLA radio continued to threaten civilians with attack on the basis of suspicion. A communiqué broadcast on April 25, for example, stated that “the Israeli army will strike any means of transport or home suspected of being used by Hizballah.” The communiqué named twenty-three towns and villages where, it said, military operations would be carried out, then closed with the following words: “The Israeli army repeats its warning to the residents of these villages and towns who are still in their homes to leave their homes immediately and to keep away from the area. Anyone who remains in these villages and towns and their surroundings will be endangering his life at his own risk. He who forewarns is excused.”⁵¹

Characterizing Civilians as Military Targets

After the warnings were issued, Israeli officials indicated that civilians who did not leave the designated towns and villages would lose the immunity and protection granted to them under the laws of war. Israeli government spokesperson Uri Dromi said on April 13: “We gave the residents advance warning to clear out so as not to get hurt. All those who remain there, do so at their own risk because we assume they’re connected with Hizballah.”⁵² The next day, an IDF spokesperson said: “Anyone remaining in Tyre or these forty villages [named in the warnings] ... is solely responsible for endangering his life.”⁵³ Air Force commander Maj. Gen. Bodinger, showing a videotape of a civilian car being hit by a laser-guided bomb fired from an Israeli aircraft, said: “Anyone driving in that specific area at 2 a.m., after all our warnings to the population, cannot be an innocent civilian.”⁵⁴ SLA radio reinforced these messages. A broadcast on April 13 had the following text:

In light of the continued terrorist actions by Hizballah, the Israeli Army will intensify its activities against the terrorists starting tomorrow, 14 April 1996. Following the warning broadcast by the Voice of the South to the inhabitants of 45 villages, *any presence in these villages will be considered a terrorist one, that is, the terrorists and all those with them will be hit.* Any civilian who lags behind in the aforementioned villages and towns will do so on his own responsibility and will put his life in danger.⁵⁵

⁵⁰Article 50(1) of Protocol I sets forth a general norm about the presumption of civilian status, stating in its pertinent part: “In case of doubt whether a person is a civilian, that person shall be considered to be a civilian.” Further, Article 50(3) of the protocol states: “The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.”

Protocol I also states clearly that in cases of doubt, civilian objects should enjoy the presumption of immunity offered by the laws of war. Article 52(3) states: “In case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used.”

⁵¹ Voice of the South, Kafr Killa, April 25, 1996, as reported by the BBC Monitoring Service, April 26, 1996.

⁵² “Israel Says Checking Report on Ambulance Attack,” Reuter, April 13, 1996.

⁵³ “Israel Extends Deadline for Tyre Evacuation,” Reuter, April 14, 1996

⁵⁴ Joris Janssen Lok, “Israel defends record on ‘Grapes of Wrath,’ ” *Jane’s Defence Weekly*, June 5, 1996.

⁵⁵Voice of the South, Kafr Killa, Communiqué No. 4, April 13, 1996, in FBIS, April 15, 1996, pp. 46-47. Emphasis added by Human Rights Watch.

This often-articulated position, inconsistent with international humanitarian law, was perhaps the most overlooked aspect of Israel's prosecution of Operation Grapes of Wrath. As the documentation in this report indicates, it led to Lebanese civilian casualties for which Israel bears responsibility.

Designating the Southbound Coastal Highway a Military Target

Beginning on the fourth day of Operation Grapes of Wrath, civilians travelling southbound on the coastal highway -- the only major road that links Beirut with cities in coastal and interior south Lebanon -- were threatened with attack.⁵⁶ The entire road in the southbound direction was considered by Israel to be a legitimate military target until the closing days of Operation Grapes of Wrath. SLA radio continued to broadcast warnings that drivers of vehicles moving in a southward direction could be targeted and killed.⁵⁷ This significantly hampered relief operations that were organized by both Lebanese and international nongovernmental organizations, in violation of international humanitarian law.⁵⁸ Ziad Abdel Samad, executive vice-president of Secours Populaire Libanais, a large Lebanese nongovernmental health-services organization, told Human Rights Watch:

Our center in Sidon was the headquarters for the south. After the fourth and fifth days [of Operation Grapes of Wrath], it was difficult on the roads. When Qana was attacked, we collected 500 bags of blood. The first hundred bags were collected within four to six hours after the attack, but our refrigerated truck was stopped for three hours, waiting on the road at Rmaile, because of the shelling of the [coastal] highway.⁵⁹

Lebanese taxi drivers who continued to take passengers on the highway between Beirut and the south during Operation Grapes of Wrath said that the road was particularly dangerous just south of Khaizerand, and between Khaizerand and Sarafand. One driver noted that there was "lots of shelling" at Rmaile, at the Awali river, although he never observed any guerrilla military activity in this area. "Three ships about three kilometers offshore were firing continuously, on the north and south sides of the road," he said. He pointed out areas adjacent to the highway where palm trees had been toppled and cement walls damaged from the shelling.⁶⁰

⁵⁶ On April 14, SLA radio announced: "In order to avoid possible hits on civilians and for their safety the Israeli army has decided to keep roads from south to north open and it advises all those still at home to use this chance and leave their houses as soon as possible. And in order to prevent reinforcements from reaching saboteurs, the Israeli army will hit at all suspected vehicles travelling from the north to the south." "Israel Threatens to Hit Lebanon's Port of Tyre," *Reuter*, April 14, 1996. The warning was repeated in a slightly different form on April 15. The radio's Communiqué No. 2 for that day closed with these words: "Finally, we remind you that traffic movement northward is allowed, while movement southward is completely banned. Whoever travels southward will be endangering his life. He who has forewarned is excused." *Voice of the South*, Kafr Killa, April 15, 1996, in FBIS, April 15, 1996, p. 66.

⁵⁷ An SLA communiqué on April 17 warned: "The Israeli army announces that tonight it will continue its operations against the terrorists who are firing Katyusha rockets. Therefore, travelling southward is banned, though travelling northward is still permissible. Any vehicle travelling toward the south will be under suspicion of belonging to the terrorists and will be at risk. He who forewarns is excused." *Voice of the South*, Kafr Killa, April 17, 1996, in FBIS, April 18, 1996, p. 42. An SLA broadcast on April 18 announced: "From Voice of the South we repeat and warn that the Israeli army advises the evacuees from southern villages and towns to move northward only. Every car or other means of transportation and every person moving southward should do this at their own risk and may subject themselves to the danger of death. He who is forewarned is forearmed." *Voice of the South*, Kafr Killa, April 18, 1996, in FBIS, April 18, 1996, p. 45.

⁵⁸ Article 70(2) of Protocol I states: "The Parties to the conflict and each High Contracting Party shall allow and facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel provided in accordance with this Section [Relief in Favour of the Civilian Population], even if such assistance is destined for the civilian population of the adverse Party."

⁵⁹ Human Rights Watch interview, Beirut, Lebanon, August 1996.

⁶⁰ Human Rights Watch interviews, coastal highway between Beirut and Tyre, Lebanon, August 1996.

As the Israeli military operation progressed, the shelling of the coastal highway intensified. In a press release issued on April 22, 1996, the International Committee of the Red Cross (ICRC) reported that “[a]t the weekend Israeli gunships off Sidon shelled the coastal road even more heavily than previously, completely blocking it and paralyzing traffic....According to the ICRC nurse based in Tyre, medical and relief organizations were almost unable to move on Saturday [April 20].”⁶¹

UNIFIL sources in south Lebanon told Human Rights Watch that the shelling of the coastal road also appeared designed to discourage journalists from travelling from Beirut to the south to cover the conflict. "There was no Hizballah activity on the coastal road, and it became kind of wicked the way that infrastructure, electricity, and the roads were hit," said one UNIFIL official who requested anonymity. "In [Operation Accountability in] 1993, the main roads were not hit. The difference in 1996 was the targeting of the coastal road," he added.⁶²

⁶¹ICRC, Update No. 2 on ICRC activities in Lebanon,” Geneva, April 22, 1996.

⁶²Human Rights Watch interview, Tyre, Lebanon, August 1996.

A communiqué issued by SLA radio on April 23 warned of the dangers of traveling the coastal highway: "Travel to the south is still forbidden. Anyone who does not comply will be putting himself in danger. The Israeli army considers every suspicious vehicle target. Traffic to the north is allowed."⁶³ Warnings such as these did not absolve Israel of the consequences of shelling the highway indiscriminately, which is a violation of the laws of war. It is legitimate to attack an enemy's transportation system, and destroy roads and highways, if these thoroughfares are making an effective contribution to military action *and* if their total or partial destruction would offer a definite military advantage.⁶⁴ Individual vehicles transporting Lebanese guerrillas or military equipment would also be legitimate military targets. But civilian vehicles on the coastal highway were not legitimate military targets. Israeli forces were bound, under the laws of war, to refrain from indiscriminate attacks on civilian vehicles and to take precautions to avoid hitting such vehicles when attacking military targets. Particularly given the fact that Israel knew that the highway was being used by civilians, humanitarian aid vehicles, and ambulances, its forces were under a duty to distinguish military objectives on the road and protected civilian objects, and were prohibited from undertaking indiscriminate shelling.

A Typology of Attacks in South Lebanon

Human Rights Watch investigated the circumstances of eight attacks in south Lebanon by Israeli military forces, including the three incidents that yielded the highest civilian casualty tolls during Operation Grapes of Wrath: the helicopter gunship attack on an ambulance in the village of Mansouri on April 13 that killed two women and four children; the helicopter gunship attack on a house in the village of Upper Nabatiyeh on April 18 that killed nine civilians, including a newborn baby, six children under thirteen years old, and their mother; and the artillery barrage in Qana, also on April 18, in which over one hundred civilians lost their lives and an unconfirmed number were maimed or permanently injured. The eight attacks fall into four broad categories, each of which raises grave concerns about Israel's compliance with the laws of war:

- Attacks in which civilians were killed because Israel alleged either that towns and villages were empty of civilians, when this obviously was not the case, or that residents who had not evacuated designated towns and villages were "connected with Hizballah" and thus legitimate military targets themselves.
- Indiscriminate and unlawful attacks on community-based medical services in Nabatiyeh provided by the Islamic Health Society, a nationwide health network administered by Hizballah.⁶⁵
- Indiscriminate attacks on the vehicles of U.N. peacekeepers, which were part of a pattern during Operation Grapes of Wrath of Israel's attempt to impede UNIFIL's delivery of humanitarian assistance to civilians who were unable or unwilling to leave their homes.
- Artillery attacks near and on U.N. bases where civilians were openly sheltered, and the use during such attacks of anti-personnel shells designed to explode above the ground and spread shrapnel over a wide area in order to maximize casualties.

Blaming the Civilian Victims

Civilians remained in south Lebanon for a number of reasons. The elderly, the disabled, and the poor simply lacked the wherewithal to leave. Some pregnant women also remained in their homes. Many tobacco-farming families were reluctant to abandon their crops during the brief two-week period when seedlings were bedded out and irrigated.

⁶³ Voice of the South, Kfar Killa, April 23, 1996, as reported by BBC Monitoring Summary of Word Broadcasts, BBC Monitoring Service: Middle East.

⁶⁴ Article 52(2) of Protocol I states that "[a]ttacks shall be limited strictly to military objectives." As noted, the article then provides a two-pronged definition of the term: "In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offer a definite military advantage."

⁶⁵ Article 51(4) of Protocol I states that indiscriminate attacks are prohibited, and provides definitions of such attacks. Article 51(4)(a) states that one type of indiscriminate attack is an attack that is "not directed at a specific military objective."

Some families who had evacuated during Operation Accountability in 1993 refused to repeat what had been a difficult experience, and others simply resented being ordered by the Israelis to leave their homes. But Israeli government and military officials made it clear throughout Operation Grapes of Wrath that Lebanese civilians would bear responsibility for their own deaths if they remained in towns and villages in south Lebanon that had been ordered evacuated by the Israeli military and its proxy SLA.

When a clearly marked ambulance that was being used to transport fleeing civilians from the village of Mansouri was rocketed by an Israeli attack helicopter on April 13, 1996, killing six women and children, Israeli officials responded by blaming the victims. One government official said that Israel "assumed" that remaining civilians in Mansouri were "connected with Hizballah," and a top military official said that civilians "were warned not to be there." Similarly, when nine civilians were killed on April 18, 1996, in the village of Upper Nabatiyeh in another helicopter attack that reduced an occupied two-story house to rubble, then-Prime Minister Peres expressed surprise and said that the area "was supposed to be vacant."

The fact that Lebanese civilians were unwilling or unable to leave their homes according to timetables laid down by the Israeli military in no way absolved Israel of its duty under international humanitarian law to protect the civilian population from the dangers arising from military operations, nor did it give Israeli forces a license to attack without distinction or proper precautions homes and vehicles in Mansouri, Nabatiyeh, or elsewhere in south Lebanon. The International Committee of the Red Cross reminded Israel of these obligations in a press release that it issued on April 19, 1996: "The orders to evacuate an entire region -- in this case contrary to international humanitarian law -- issued to the inhabitants of villages in southern Lebanon, do not exempt Israel from the obligation to respect civilians still on the spot."⁶⁶

Mansouri

On April 13, 1996, an Israeli helicopter rocketed an ambulance that was leaving the village of Mansouri, killing four children and two women. The initial reaction of the Israeli government was to blame the victims. "We gave the residents advanced [sic] warning to clear out so as not to get hurt," said government spokesman Uri Dromi after the attack was reported. "All those who remain there do so at their own risk because we assume they're connected with Hizballah," he said.⁶⁷ Senior Israeli military officials later in the day provided additional information that was never substantiated. "We hit a car in which a Hizballah activist was travelling. The car was travelling in the exact area...where Katyushas were fired only a few hours earlier," IDF chief of general staff Lt. Gen. Amnon Shahak said.⁶⁸ The head of the IDF's Northern Command, Maj. Gen. Amiram Levine, told reporters:

The vehicle was sighted by the Israeli army and the terrorist was killed...If children were killed I regret that but repeat and stress they were in an area from which the Hizballah fires Katyushas and they were warned not to be there. We will continue hitting anyone who goes around in the places from which Hizballah fires.⁶⁹

Human Rights Watch investigated the circumstances of this attack, and found that the clearly marked Volvo station wagon was part of a caravan of vehicles that had assembled on the afternoon of April 13 to carry civilians who were evacuating Mansouri and surrounding villages, in the wake of radio warnings by the SLA that residents of the area who did not evacuate would be risking their lives.

⁶⁶ICRC, "ICRC Condemns Shelling of Civilians in Southern Lebanon," ICRC Communication to the Press, No. 96/14: 19 April 1996.

⁶⁷ "Israel Says Checking Report on Ambulance Attack," Reuter, April 13, 1997.

⁶⁸ Colleen Siegel, "Israel Says Guerrilla Was in Destroyed Ambulance," Reuter, April 13, 1996.

⁶⁹ *Ibid.*

Some of the vehicles used in the evacuation, including the ambulance, had gathered in an empty football field on a hill in village. Overhead, two Israeli helicopters were "watching," a resident said. "They would take turns. Two would come, and two would leave. The helicopters saw the ambulance being loaded, watched people getting in," he added. Abbas Ali Jiha was behind the wheel of the ambulance. Abbas' wife Mona Shuweik, twenty-seven, was inside, along with their children Zeinab, ten, Haneen, five, and Maryam, a two-month-old infant. The woman and her children would be killed a short time later. Neighbors also piled into the ambulance, including Hudu' al-Khalid, twelve, her two sisters, and her grandmother. Hudu' and her grandmother would also be killed, and her two sisters injured.⁷⁰

"The helicopters watched the convoy moving from the village. The whole road was full of cars leaving. The helicopters followed us to the Fijian [UNIFIL] checkpoint, where there was a traffic jam," a villager who was an eyewitness told Human Rights Watch. According to his account, there was a school bus on the road in front of the ambulance, and a slow-moving tractor, towing a flatbed that was packed with seventy people, including forty to forty-five children, was at the rear of the convoy. After the ambulance passed the U.N. checkpoint at the entrance to the village, about ten meters down the road, it was hit. "I saw the two helicopters. One dove down and fired, and the other was above, protecting it. The ambulance went flying into a house on the left side of the road," he said. A journalist on the scene wrote: "I saw it disappear in a huge cloud of smoke followed by a powerful blast, just 20 meters from where I stood at the checkpoint. It was hurled 20 meters off the road, through a garden and into the front room of a house, destroying the room in an avalanche of stone and rubble."⁷¹

⁷⁰ Human Rights Watch interviews, Mansouri, Lebanon, August 1996.

⁷¹ Najla Abu Jahjah. "Six Killed As Israeli Rocket Hits Ambulance." Reuter, April 13, 1996.

In Israel, the IDF continued to justify the incident as an attack on a legitimate military target, a lone guerrilla. At a press conference in Jerusalem, Lt. Gen. Shahak said that "to the best of our knowledge" the vehicle was transporting a guerrilla. He added: "The Israeli Defense Force will continue to investigate the incident. Later on, when all details will be known, it will be conclusively proven that the target was Hezbollah terrorists using the ambulance for their own needs."⁷² An IDF spokesman said: "If other individuals in the vehicle were hit during the attack they had been used by the Hizbollah as a cover for the Hizbollah activities. The army made repeated warning[s] during the past two days it would attack Hizbollah terrorists where they may be and that the civilian population should distance itself from terrorists."⁷³ The Israeli daily newspaper *Yediot Aharonot* ran a large color photograph of the hulk of the bombed-out vehicle over the caption "terrorist ambulance."⁷⁴ Asked about the children who were killed in the ambulance, Prime Minister Peres said on April 14: "The children -- if there were children -- were carried into a truck that was identified as a truck of Hizballah and the driver was a Hizballah man, clearly. I regret he took children into this vehicle."⁷⁵

Upper Nabatiyeh

On the morning of April 18, 1996, nine civilians were killed and two injured when the house where they were sleeping in the village of Upper Nabatiyeh was reduced to rubble in an attack by Israeli helicopter gunships. (Two other houses, also occupied by civilians, were targeted in the same operation.) The IDF claimed, after the attack, that Hizballah "terrorists" had fled to the house after launching an attack on an IDF position in the hills some distance away, and that pursuing Israeli helicopters came under fire from the area around the house. This attack did not receive sustained scrutiny due to the massive casualty toll that occurred later the same day when the U.N. base at Qana came under fire, causing an even greater loss of civilian life.⁷⁶

The day before the house was targeted, SLA radio broadcast a warning that Israeli military operations would begin in Nabatiyeh and its environs at 10:30 am, warning that residents who did not evacuate would do so at their own risk.⁷⁷ Another SLA broadcast later in the day again urged the remaining 700 families to leave the area.⁷⁸ One of the families that did not evacuate was that of Hassan Muhamed Abid, his wife Fawziyah Khawajah, and their nine children, including a newborn baby. For reasons of safety, the family had relocated from their own exposed one-story home to a neighbor's two-story house that was built into a hillside that sheltered its rear wall. The neighbor, Zaynib 'Ali Mali, told Human Rights Watch why Fawziyah decided to remain in the village: "She was pregnant, you know, she had little

⁷² "Israeli missile hits Lebanese ambulance," United Press International (UPI), April 13, 1996.

⁷³ "Israel Says Destroyed Ambulance Was Guerrilla Vehicle," Reuter, April 13, 1996.

⁷⁴ Barton Gellman, "Raids Draw Wide Praise in Israel: Lebanon Operation Boosts Peres' Image," *Washington Post*, April 15, 1996.

⁷⁵ Qol Yisra'el, Jerusalem, April 14, 1996, in FBIS, April 15, 1996, p. 24.

⁷⁶ See "Shelling near and at U.N. Bases Sheltering Civilians," below, for an analysis of the attack on Qana.

⁷⁷ The SLA's Communiqué No. 2 of April 17, 1996, read as follows: "The Israeli army's operations against Hizballah militia will commence at 1030 [0730 GMT] today, targeting al-Nabatiyah and its environs. The Israeli Defense Forces again warn residents of this region that anyone failing to leave the region will expose himself to danger. Those who have not yet left their homes must leave them as soon as possible and head north. Anyone in the region after 1030 will be there at his own risk. He who forewarns is excused." Voice of the South, Kafr Killa, April 17, 1996 (0534 GMT), in FBIS, April 17, 1996, p. 60.

⁷⁸ "Our correspondent has reported that at least 700 families are still in al-Nabatiyah and the surrounding areas. The Voice of the South advises these families and anyone remaining in al-Nabatiyah and its environs to use the opportunity of the halt in the Israeli army's activities until 1500 today. The families are asked to head north as soon as possible before operations resume in the area. We are announcing this advice despite our knowing that several Hizballah terrorists are still operating in al-Nabatiyah and its environs, hiding behind civilians and their homes and using them as a protective umbrella for their terrorist actions." Voice of the South, Kafr Killa, April 17, 1996 (1105GMT), in FBIS, April 17, 1996, pp. 63-64.

Nur just four days before she died. We are also farmers, and she was afraid of losing her crop.” The neighbor produced photos of the large six-room house and described it as “pretty safe,” pointing out a bomb-resistant second wall that had been constructed around the lower story. “We built it like that because for a year and a half the Israelis were hitting the area.”⁷⁹

⁷⁹ Human Rights Watch documented two earlier attacks in Upper Nabatiyeh in which seven civilians lost their lives: one on July 8, 1995, that killed three siblings, aged four to seventeen, and another on October 19, 1994, that left four civilians dead, including a twelve-year-old boy. For additional information about these attacks, see Human Rights Watch, *Civilian Pawns*, pp. 129-131.

Fawziyah's husband told Human Rights Watch that during the 1993 military conflict the family had evacuated to Ansar and for seven days slept in a park. "This time we said, 'If we die, we die.' She was ready to give birth, and I had planned, God willing, to go on the *hajj* [the annual pilgrimage to Mecca] this year."⁸⁰ He explained that he left Upper Nabatiyeh for the Beirut airport on the evening of April 17, leaving his wife, the nine children, and Ahmad 'Ali Bassal, the fiancé of their oldest daughter, in the supposedly bomb-proof home.

The decision to stay in Upper Nabatiyeh proved fatal for Fawziyah, seven of her children, who ranged in age from the four-day-old infant to a fifteen-year-old, and her daughter's fiancé. They were all asleep in one room full of mattresses when planes flew overhead at around 5:30 in the morning, one of the two surviving children, seventeen-year-old Ibrahim, a mechanic's apprentice, told Human Rights Watch, adding that he had not heard any outgoing fire. The sky was "full of planes," said his sister Najud, nineteen. She added:

We heard them flying over for maybe forty-five minutes, and then we were hit. Ibrahim was trapped under the rubble. Then the planes came back and hit another building. The Red Cross came. The planes went away and came back, so many. We got hit three times. The second or third hit knocked the whole house down on top of us.⁸¹

Her fiancé's brother, Abbas Bassal, said:

I was at that other house, with six people in my family, but we did not get hurt. Only three houses were hit, and they were the only three houses where there were people. In the other house, there were three children and their parents. I'm certain they [the Israelis] knew we were here. They did not hit any vacant houses. There may have been resistance [military activity] far away from here, but not right near here.

In addition to the nine who were killed, Ibrahim suffered injuries to his neck and Nujud to her hip; at the time of the Human Rights Watch interview, he was wearing a neck brace and she was walking with crutches. The survivors said that no one had left the house after Hassan Abid departed for the airport the night before the attack, and that no one had entered the house. In the aftermath of the attack, Lebanese soldiers, civil defense workers with bulldozers, and journalists arrived at the site of the demolished house. A Human Rights Watch representative viewed two videotapes of the rescue and cleanup operation. The film shows that neither of the two males in the house -- Ibrahim, the survivor, and Ahmed 'Ali Basal, one of the victims -- was dressed in the military fatigues that Hizballah fighters typically wear when conducting military operations. All eleven victims, the dead and the injured, were found on mattresses. Human Rights Watch is aware of no evidence, from Lebanese or Israeli authorities, indicating that guerrillas, dead or alive, were found in the rubble.

Israeli officials, however, claimed that guerrillas had taken shelter in the house after a military operation against an IDF position in the steep hills that overlook Upper Nabatiyeh, without mentioning that two other occupied homes in the vicinity were also attacked. A written statement by the IDF spokesman provided this description of the circumstances of the attack:

⁸⁰ Human Rights Watch interviews with surviving family members and neighbors, Upper Nabatiyeh, Lebanon, May 1996.

⁸¹ Human Rights Watch interview, Upper Nabatiyeh, Lebanon, May 1996.

This morning...Hizbullah terrorists attacked an IDF post at Ali Taher range, in the central sector of south Lebanon. Immediately after the operation, terrorists fled to the home of a Hizbullah activist on outskirts of Nabatiya, south Lebanon. IAF helicopters sent to scene were fired upon by anti-aircraft fire from the area around the house to which the terrorists fled. IAF planes fired at and hit the house. IDF again warns community residents to evacuate homes to avoid harm, especially while Hizbullah continues to use civilian homes to operate, hide and shoot into Galilee communities and at our forces.⁸²

After the attack, then-Prime Minister Peres said that he was "surprised" that civilians had been killed: "We only hit at those buildings from which Katyushas were fired. But naturally Nabatiyeh was supposed to be vacant."⁸³ Ironically, the day before the attack the *Independent* (London) reported that one Israeli military commander in south Lebanon stated that residents remaining in Nabatiyeh were assumed to be legitimate military targets. Here is the journalist's account of what the commander told him on April 17:

I was standing on the roof of the Israeli forward military headquarters at Marjayoun. It is on a hill three miles inside Lebanon, from which you can see Israeli gun positions and their targets. Colonel Amal Assad, a senior Israeli commander, pointed to Nabatiyeh and said, ominously, there was "almost nobody left" in the town. "If there are any houses destroyed they are terrorist houses," he added. "We haven't damaged any civilian houses." The impression was that any house hit by a shell or a missile -- as was one yesterday, killing nine people -- would be designated as a terrorist's.⁸⁴

Violations of International Humanitarian Law

At the time of the attacks in Mansouri and Upper Nabatiyeh, Israeli forces knew that large numbers of civilians remained in the two villages. The fleeing civilians in Mansouri, who had openly assembled in a caravan of vehicles to leave the village, were in clear sight of Israeli helicopters that hovered overhead as the mass evacuation was being organized on the ground. It was also known, and broadcast by the SLA, that some 700 families were living in homes in Nabatiyeh and its environs, having disregarded repeated warnings to evacuate this large area (see above). The attack on the ambulance in Mansouri, and the house in Upper Nabatiyeh, violated the laws of war in several respects.

First, Israel did not demonstrate that any attempts were made to distinguish between the civilian population and combatants prior to launching the attacks. This is a basic rule of international humanitarian law.⁸⁵ Rather, in both cases Israel cited the alleged presence of combatants -- and the unwillingness of civilians to heed warnings and vacate these areas -- implicitly to argue that civilian objects in Mansouri and Nabatiyeh had been lost their civilian character and thus protection under the laws of war.⁸⁶

⁸²Hizbullah Attacks IDF Post (Communicated by IDF Spokesman), Jerusalem, April 18, 1996.

⁸³ Derek Brown, "Bitter Aftertaste to Grapes of Wrath," *Guardian*, April 19, 1996.

⁸⁴ Patrick Cockburn, "Operation Doomed to Failure," *Independent* (London), April 19, 1996.

⁸⁵ Article 48 of Protocol I states: "In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.

⁸⁶ Article 50(3) of Protocol I states: "The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character."

In the aftermath of the attacks, Israel did not provide any evidence to substantiate its stated position that the ambulance in Mansouri or the home in Upper Nabatiyeh (and the two other houses targeted in the same operation) were legitimate military targets under the laws of war. In fact, among the fifteen Lebanese who were killed in these two incidents, fourteen were women and children and none was identified as a combatant. As the attacking party, Israel was obliged not merely to assert but to have proof that guerrillas were at that time using the ambulance and the house to shield themselves or military activities. Further, because both the ambulance and the house were civilian in nature, Israel also violated the laws of war concerning the general protection of civilians and civilian objects, which specify that in cases of doubt, the presumption must be that objects are civilian and thus immune from attack.⁸⁷

Also, Israeli military forces did not take precautions to spare Lebanese civilians prior to launching the attacks. The burden is on Israel to demonstrate that it did everything feasible to verify that the ambulance in Mansouri and the home in Upper Nabatiyeh were in fact legitimate military targets whose destruction, in the circumstances prevailing at the time, would have offered a definite military advantage to the Israeli side that would have outweighed the obligation to protect civilians.

Targeting Community-Based Medical Services

The laws of war specifically protect hospitals, ambulances and medical personnel from attack. Human Rights Watch documented that Israeli military forces attacked clearly marked ambulances and vehicles of relief organizations in July 1993 during Operation Accountability.⁸⁸ In a letter that we received in May 1994, the IDF denied that ambulances had been targeted during that conflict. Yet in April 1996, a hospital and an ambulance in south Lebanon again came under indiscriminate attack from Israeli forces.

The large town of Nabatiyeh was one of the areas in south Lebanon that Israeli military forces initially ordered evacuated within six hours, by 4:30 on the afternoon of April 12, 1996.⁸⁹ Many residents did not heed the warning and remained in their homes. In the days that followed, a hospital was damaged by indiscriminate shelling in downtown Nabatiyeh, and a clearly marked ambulance from the hospital, responding to a call that there were injured children in a nearby village, was targeted by Israeli aircraft and destroyed.

Hospital of the South in Nabatiyeh

At about 9:00 on the morning of April 15, 1996, the Hospital of the South in Nabatiyeh was hit by shells reportedly fired from Taibeh, an Israeli position south of the city. The hospital, located on a busy main street, is the largest Islamic hospital in south Lebanon, with thirty beds. It is part of the Islamic Health Society, a nationwide medical services network administered by Hizballah. The hospital was hit during a ten-shell barrage. The first shells slammed into a nearby seven-story office building southeast of the hospital and another building just to the south, eyewitnesses told Human Rights Watch. Workers who were in the hospital at the time said that they heard the shelling "getting closer and closer."⁹⁰

⁸⁷ Article 52(3) of Protocol I states: "In case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used."

⁸⁸ Human Rights Watch, *Civilian Pawns*, pp. 98-102.

⁸⁹ On April 12, 1996, IDF Radio (Tel Aviv) reported: "A very short time ago, the Air Force began a pinpointed strafing of Hizballah targets in villages whose residents were urged to leave six hours ago. The IDF ultimatum expired at 1630 [1330 GMT]. The villages include Yatar, Jibshit, Khirbat Slim, and al-Nabatiyah, which are known to be central bases for Hizballah terrorist activities." FBIS-NES-96-072, April 12, 1996.

⁹⁰ Human Rights Watch interviews, Nabatiyeh, Lebanon, August 1996.

The four shells that hit the hospital damaged the southwest roof and exterior walls of the building, and rooms on the first and second floor of the southwest side. The obstetrics ward of the hospital, on the second floor, sustained heavy damage, and two expensive incubators and one fetal monitor were destroyed. Hospital personnel provided Human Rights Watch with color photographs, taken at the time, that documented the damage.⁹¹ On the floor below, another room was damaged, but it fortunately was empty of patients. Three hospital workers were injured in the attack, one of them seriously. Casualties were low because there were only seven patients in the hospital at the time of the attack. Others had been moved earlier to a primary health care center located on the basement level of a building a short distance from the hospital.

There had been no Hizballah military activity in the area prior to the attack, according to Dr. Adil Olaik, the hospital director, nor were any fighters present in the hospital or the immediate area. "We do not allow any military around this hospital. It is our policy, and everyone in the area knows this," he said. He noted that there had been no Islamic Resistance offices in Nabatiyeh ever since a military target in the town was attacked by Israeli forces in 1992. The doctor believed that the hospital was deliberately targeted, in order to encourage residents to flee Nabatiyeh, which was one of the towns ordered evacuated on April 12. "One of the reasons people did not leave was because they felt secure, knowing that medical assistance was available, if they needed it," he said.⁹² Rocketing ambulances and shelling a hospital helped shatter this sense of security by sending a message to residents that such protected objects were not immune from attack. In a separate interview, the doctor's view was seconded by Ziyad Abdel Samad of Secours Populaire Libanais. "Twenty-five percent of the civilians in Nabatiyeh stayed and did not evacuate because they knew that there were hospitals [to serve them]," he told Human Rights Watch, emphasizing the effect on civilian morale of attacks on facilities widely known to be protected under the laws of war.⁹³

Ambulance in Aabba

On April 16, 1996, the day after the shelling that damaged the Hospital of the South, twenty-five-year-old Mustafa 'Ali Mansour, who served as a volunteer ambulance driver during Operation Grapes of Wrath, drove from Nabatiyeh to the village of Aabba, southwest of Nabatiyeh, in response to a call that there were three wounded children in the village. Two other civil defense volunteers accompanied him. Mustafa told Human Rights Watch that he saw three types of Israeli aircraft in the sky above the village: bombers, a drone (a pilotless aircraft), and helicopters, which were hovering close by. He described what happened next:

We reached Aabba and found three kids who had been injured in an Israeli raid. We parked the ambulance near the house. I stayed in the ambulance and the others went into the house to give first aid and bring out the wounded. While they were doing this, two missiles exploded between the house and the ambulance, creating a lot of smoke. I jumped from the ambulance, called the hospital and said that we were hit, and then I ran.

Mustafa was wearing a flak jacket and a helmet, but was injured when shrapnel cut through his right wrist as he ducked and protected his head by lowering it and putting his hands behind his neck. Mustafa saved his life by running away from the ambulance. About three minutes after the first attack, there was a second one. "The planes came back, hit the ambulance, and blew it to pieces," he said.

The ambulance, a white Mercedes station wagon, was parked in a completely open area on the main road, with residential buildings on both sides of the street, Mustafa said. It was equipped with a blue beacon on the roof, was flying a flag of the Islamic Health Society, and was clearly marked in red writing as a civil defense ambulance.

⁹¹ These photographs are on file at Human Rights Watch.

⁹² Human Rights Watch interview, Nabatiyeh, Lebanon, August 1996.

⁹³ Human Rights Watch interview, Beirut, Lebanon, August 1996.

Mustafa sustained severe neurological damage to his right hand and wrist, which was bandaged when Human Rights Watch representatives interviewed him four months after the attack. He had undergone ten operations and said that doctors told him that his hand "will never be the same" because "the nerves are dead." He was still in need of another operation for reconstructive plastic surgery. Mustafa had worked as a car painter in a small shop in Nabatiyeh owned by his family, but has been unable to work since his injury.⁹⁴

Violations of International Humanitarian Law

Both the attack on the hospital, and the attack the next day on the ambulance, were blatant violations of the laws of war. Article 18 of the Fourth Geneva Convention strictly prohibits attacks on civilian hospitals: "Civilian hospitals...may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict." Israel was under an obligation to both protect and respect hospitals during the conduct of military operations in Lebanon. As the authoritative *Commentary* to the Geneva Conventions states: "[B]elligerents are under a general obligation to do everything possible to spare hospitals. That is the essential point."⁹⁵ The indiscriminate shelling that damaged the Hospital of the South, which appeared not to be directed at a specific military objective, violated this basic requirement of international humanitarian law. Medical transport, including ambulances, are similarly protected under the Geneva Conventions,⁹⁶ and Protocol I.⁹⁷

Targeting the Vehicles of U.N. Peacekeepers

In addition to organizing convoys for villagers who wanted to evacuate, and sheltering some 5,000 civilians on its bases during the conflict, U.N. peacekeeping soldiers distributed food and relief supplies to residents throughout the south who were unable or unwilling to flee. In its periodic six-month report to the U.N. Secretary-General, UNIFIL noted that during Operation Grapes of Wrath that its "trucks and armoured personnel carriers, which were engaged in delivering humanitarian aid to the population, were often delayed or stopped altogether as a result of firing by Israeli artillery and aircraft, despite assurances from IDF that all UNIFIL humanitarian missions would be facilitated. In the later stages of the Israeli operation, the damage to roads impeded UNIFIL movements."⁹⁸

A UNIFIL official in Lebanon told Human Rights Watch that UNIFIL always informed the Israeli military of the movements of its humanitarian convoys, and that the IDF "told us officially that [the convoys] would not be impeded."⁹⁹ Despite this assurance, UNIFIL vehicles that carried out humanitarian missions came under dangerously close and indiscriminate Israeli fire on numerous occasions during Operation Grapes of Wrath. The official, who spoke on condition of anonymity, said that he went out in some fifteen to sixteen such convoys and experienced ten cases of close Israeli fire near the vehicles in which he traveled. Human Rights Watch documented two such incidents of indiscriminate fire on clearly marked UNIFIL vehicles.

⁹⁴Human Rights Watch interview, Nabatiyeh, Lebanon, August 1996.

⁹⁵ Jean S. Pictet, Editor, *Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva, International Committee of the Red Cross: 1958), p. 147.

⁹⁶ Article 21 of the Fourth Geneva Convention.

⁹⁷ Article 17 of the protocol states in its pertinent part: "The civilian population and aid societies, such as national Red Cross (Red Crescent, Red Lion and Sun) Societies, shall be permitted, even on their own initiative, to collect and care for the wounded, sick and shipwrecked, even in invaded or occupied areas. No one shall be harmed, prosecuted, convicted or punished for such humanitarian acts." Regarding medical vehicles, Article 21 of the protocol states: "Medical vehicles shall be respected and protected in the same way as mobile medical units under the [Geneva] Conventions and this Protocol."

⁹⁸ UNIFIL Report, para. 21.

⁹⁹ Human Rights Watch interview, Tyre, Lebanon, August 1996.

Between Zahrani and the Coastal Highway

On the afternoon of April 16, 1996, six Finnish U.N. soldiers set out from their base in an armored personnel carrier (APC) and a container truck, on their way to Zahrani to collect humanitarian supplies. When they reached Zahrani, the soldiers loaded the truck for about ninety minutes. During this time -- at about 3:30 p.m. -- Israeli aircraft began to bomb the road about one kilometer away. "They dropped at least four or five bombs," Capt. Ville Pouttu, who was in the convoy, told Human Rights Watch. "They were trying to cut the road. It was the only road leading to Nabatiyeh."

When the truck was loaded, the Finns travelled west, in the direction of the coastal highway. They told Human Rights Watch that they found the four-lane road blocked by three enormous bomb craters "in a line," each about ten meters in diameter and four meters deep. While the soldiers were outside their vehicles, an Israeli jet swooped down and flew two times over the APC. After the second overflight, as the men were mounting the APC, a bomb was dropped into one of the craters on the road in front of them, about fifty meters from their vehicle. The site of the attack was an open area, with no buildings or trees obstructing a view of the clearly marked vehicles. A second attack followed. The drivers put the vehicles into reverse and drove about 300 to 400 meters toward a building with a driveway, where they hoped to be able to turn around.¹⁰⁰ Two more bombs were dropped, about 100 to 150 meters from the vehicles, according to an internal UNIFIL report obtained by Human Rights Watch.

Wadi Gilo

On April 24, 1996, UNIFIL Finnish soldiers assigned to the Force Mobile Reserve (FMR) armoured personnel carrier (APC) Unit, located near Qana, were ordered by their platoon commander to drive an APC to the Finnish Battalion to transport three soldiers who were going on leave. They started out at 9:00 a.m., the group's leader, Sgt. Pelkonen Mika, told Human Rights Watch. Sgt. Mika was accompanied by two other soldiers manning the APC, and three soldiers who rode as passengers. Before leaving the FMR base, the group checked for shell warnings.¹⁰¹ There were none, the sergeant said.

The APC travelled from the FMR base to the village of Eyetit and on toward Wadi Gilo and then Bafliyah. "We stopped near Wadi Gilo because we saw air activity [to the north]. We checked with UNIFIL operations and got a negative for shell warnings [along our route]. We continued toward Finn Batt," Sgt. Mika said. He added that the road was empty and that the APC was driving fast. The large white vehicle slowed down when the soldiers saw a bomb crater in the road that had not been there the previous day. The APC moved closer to the crater so the soldiers could judge if they could pass or would need to take a detour. When they realized that the vehicle would not be able to pass, the driver put it in reverse and drove back about five meters. Then the attack came.

¹⁰⁰ Human Rights Watch interviews, UNIFIL Finnish Battalion, Srifa, Lebanon, August 1996.

¹⁰¹ See section entitled "Qana," below, for a detailed description of Israeli shell warnings in areas of south Lebanon in which UNIFIL forces are stationed.

"I heard a *whoosh* and felt air pressure. The soil came up from the ground and our seats were pushed forward," Sgt. Mika said. A bomb had been dropped on the right-hand side of the road, about ten meters behind the APC. Sgt. Mika speculated that it probably was a 1,500kg air bomb because it did not produce shrapnel and that this type of bomb was designed to dig deep into the ground and leave large craters. He told Human Rights Watch that it was a "miracle" that no one in the vehicle was injured. Rocks and dirt were unearthed in the bombing, covering the roof of the APC. The soldiers fired eight flares, which is standard procedure when UNIFIL positions or personnel come under close Israeli fire. About ten minutes later, a second bomb was dropped on the left-hand side of the road, about twenty to twenty-five meters from the vehicle, which was then blocked, unable to move forward. The weather was very clear. The roof of the APC was covered with a 40-cm layer of rocks and dirt, the engine room was full of dirt, the side mirrors were broken, and the antenna was damaged. The APC was trapped for about ninety minutes. There was no other bombing of the road or in the immediate area during this time, the soldiers told Human Rights Watch. After the first bomb landed, the crew informed the FMR base and the Finnish battalion of the attack. "We were very lucky," Sgt. Mika said.¹⁰²

Violations of International Humanitarian Law

UNIFIL personnel told Human Rights Watch that they viewed the "close fire" incidents as deliberate attacks, aimed at impeding or discouraging the delivery of humanitarian assistance to Lebanese civilians. "They were not happy that we were bringing in aid. They knew that they were cutting it close. The question is, who made the decision to allow firing so close to our convoys?" a senior official asked.¹⁰³ Indeed, his question remains to be answered, but the frequency of such incidents leaves no doubt that Israeli military forces did not fulfill their duty under the laws of war to refrain from indiscriminate attacks and to take precautions to ensure that only legitimate military targets would come under fire.

International humanitarian law requires that only military targets may be the object of attack. The two incidents of close fire described above are classic examples of indiscriminate attacks.¹⁰⁴ In both cases, attacking Israeli aircraft did not appear to be aiming at specific military objectives.

Shelling near and at U.N. Bases Sheltering Civilians

The IDF termed the deadly artillery barrage on the U.N. base at Qana on April 18, 1996, an "unfortunate incident."¹⁰⁵ The IDF stated that it "has always directed its armed forces that civilian targets are not to be attacked," and held fast to the position that the tragedy at Qana was an accident due to mapping and measuring errors. "Any attempt to claim that the extremely unfortunate results of the Qana incident were anything but accidental, as implied by the U.N. report, is totally unfounded," the IDF wrote.¹⁰⁶ But as the documentation in this report demonstrates, Israeli forces did not always limit their attacks during Operation Grapes of Wrath strictly to specific military targets, as required by the laws of war. By launching indiscriminate attacks, and by failing to take the necessary precautions to verify that only military targets would be attacked, Israel violated international humanitarian law and thus bears direct responsibility for the civilian deaths and injuries caused by such violations. These actions in April 1996 were not inconsistent with the

¹⁰² Human Rights Watch interviews, UNIFIL Force Mobile Reserve base near Qana, Lebanon, August 1996.

¹⁰³ Human Rights Watch interview, Tyre, Lebanon, August 1996.

¹⁰⁴ Article 51(4) of Protocol I states that indiscriminate attacks are prohibited, and then provides definitions of such attacks. Article 51(4)(a) states that one type of indiscriminate attack is an attack that is "not directed at a specific military objective."

¹⁰⁵ Israel Defence Forces, "IDF Response to U.N. Report on the Qana Incident," May 9, 1996, p.1. Hereinafter IDF Report.

¹⁰⁶ IDF Report, p. 7.

historical record of the Israeli military in Lebanon: over the last fifteen years, thousands of Lebanese and Palestinian civilians have been killed, maimed and injured in wholly indiscriminate attacks.¹⁰⁷

¹⁰⁷ Israel's invasion of Lebanon, launched on June 6, 1982 and code-named "Operation Peace for Galilee," left an estimated 17,824 dead, most of them civilians. The IDF's seven-week military siege of West Beirut between June and August 1982 involved "a relentless barrage of air, naval and artillery bombardment. At times, the Israeli bombardment appeared to be random and indiscriminate; at other times, it was targeted with pinpoint precision....The appalling civilian casualties earned Israel world opprobrium." Thomas Collelo, Editor, *Lebanon: A Country Study* (Washington, D.C., Federal Research Division, Library of Congress: 1989), p. 204. For documentation of indiscriminate attacks in south Lebanon between 1993 and 1995, see Human Rights Watch, *Civilian Pawns*.

The civilian deaths and injuries at Qana should be viewed in this broader historical context, and in terms of the incidents during Operation Grapes of Wrath prior to the afternoon of April 18. Qana was not the only instance of firing at or close to U.N. bases or observation posts in south Lebanon. UNIFIL counted some 270 cases of firing at or close to U.N. positions, and reported that only "about fifteen" of these were attributed to the Lebanese guerrillas, with the remainder caused by IDF or SLA forces.¹⁰⁸ Human Rights Watch examined one of these incidents: the little-noticed indiscriminate attack on the U.N. base at Majdal Zoun, which occurred the day before the Qana massacre. Our investigation revealed that the attack on this small base, where some sixty civilians were sheltered, was similar in several key respects to the attack on Qana the next day.

Majdal Zoun

During the first week of Operation Grapes of Wrath, most of the residents of the small front-line village of Majdal Zoun had fled in fear. SLA radio had ordered the residents to evacuate on April 12. Some did not leave but sought shelter in the U.N. base in the village, which had been manned by Nepalese soldiers for twelve years. There were sixty civilians inside the compound when it was shelled on April 17, 1996, and it was sheer luck that no one was killed.

The commanding officer of the base, Lt. Col. Rana Dhoj Limbu, recounted the military operations that led up to the attack. On April 14, there was "a lot of shelling around the village, damaging houses and roads," he told Human Rights Watch. On April 15, journalists came to inspect the destruction, travelling in a convoy of U.N. vehicles and private cars. The convoy came under "close fire" from 155mm artillery. On April 16, the road to Majdal Zoun was bombed about one kilometer northwest of the base, cutting off access. The next morning, a U.N. force of Polish engineers and Nepalese soldiers attempted to clear the road, arriving in an armored personnel carrier, a front-end loader, and a Toyota van. At about 11 am, after the peacekeepers had filled two bomb craters and cleared debris from about 700 meters of the road, an Israeli fighter jet dropped a bomb 150 meters north of them. They continued working for another half-hour, but left when two rounds, fired by tanks or artillery, exploded 200 meters in front of them.

About ten minutes later, the U.N. base itself came under direct fire, receiving eight incoming rounds. The mix of shells was similar to what would explode the next day at Qana: half of them were "proximity-fuzed" devices that explode in the air over a target rather than on the ground. It was these air-burst shells that exploded near the prefabricated buildings that housed the camp's kitchen and dining room, causing extensive damage, and above roads inside the base. The bathrooms, sentry tower, and water tank also were damaged in the attack. "Many other rounds fell nearby, which we did not report," the commanding officer added.

According to Lt. Col. Limbu, at the time of the attack, there had been no guerrilla military actions in the area and no firing of Katyusha rockets. "Most of the resistance activity was in Yatar," he said, another front-line village some ten kilometers to the east. He also noted that, in a departure from normal operating procedure, there had been no shell warning from the Israeli side prior to the attack. The next day, the Qana base did not receive a shell warning either.

¹⁰⁸ UNIFIL Report, para. 22.

"It could not have been a mistake," Lt. Col. Limbu said as he accompanied Human Rights Watch representatives on a tour of the compound. "They know this base. This is one of the U.N. bases that is closest to the IDF positions. Maybe it happened because we were sheltering civilians and they did not like this." Col. Limbu pointed out that Yarin, which he described as "a main firing position" during Operation Grapes of Wrath, was only five kilometers away, near the Israeli border, and that another IDF position was less than a kilometer from the base. He noted too that the weather was clear when the attack occurred and, after the first shell (a smoke bomb) landed, the peacekeepers fired eight red flares. "This is normal [procedure] when we are attacked. They can see the flares from Yarin," he said. The flares did not halt the attack, and shells were fired into the base for five to seven minutes, he added.¹⁰⁹ Unlike the situation at Qana, where indirect fire was used, the nearby artillery gunners had clear lines of sight to Majdal Zoun.

Qana

The town of Qana was one of the sixteen towns and villages in south Lebanon ordered evacuated on April 15 on two hours' notice.¹¹⁰ Three days later, on the afternoon of April 18, Israeli artillery guns positioned on the Lebanese-Israeli border fired a deadly mix of shells into the sprawling U.N. base there, killing over 100 children, women and men who had sheltered there. Some of the survivors sustained horrible injuries, and arrived at local hospitals with missing limbs, their bodies burned and riddled with shrapnel. The staggering casualty toll was due in part to the type of shells that were used in the barrage -- about two-thirds of the total were air-burst shells with proximity fuzes, the same munitions fired a day earlier at Majdal Zoun. These high-explosive devices are anti-personnel weapons, designed to explode above the ground and spread shrapnel across a wide area, in order to maximize casualties on the ground.¹¹¹ Maj. Gen. Franklin van Kappen, the Dutch military adviser to then-UN Secretary General Boutros Boutros-Ghali, wrote in his official report about the Qana attack that "there was substantial evidence of multiple proximity-fused artillery ammunition detonating directly above the compound, covering a large portion of its area. While the exact number cannot be determined, the available evidence suggests that eight such projectiles detonated over the compound and one just outside it."¹¹²

¹⁰⁹ Human Rights Watch interview, Majdal Zoun, Lebanon, August 1996.

¹¹⁰ SLA radio, in Communiqué No. 4, broadcast the following text at 1132GMT: "In accordance with the new security plan and after Hizballah fired rockets across the northern borders of Israel, the Israeli Army announces the following: The residents of the towns and villages that we will name in this communique should leave their villages between the time they hear this communique and 1630 [1330 GMT]. Everyone who remains in his home after this time will expose himself to the danger of death at his own risk. He who warns is excused." Voice of the South, Kafr Killa, April 15, 1996, in FBIS, April 15, 1996, p. 72.

¹¹¹ Eight months before the shelling at Qana, a Human Rights Watch representative visited Shaqra, a village near the front line where civilians through the years have suffered death, injury and property damage from indiscriminate artillery attacks. Residents reported that Israeli artillery gunners had begun to fire a new type of artillery shell earlier that year. "At first, people did not know what was happening," one man explained. "We were looking for the places where the shells hit the ground. Then we realized that these shells explode in the air, and the shrapnel rains down over a large area," he said. Villagers used the term "spreading-out shells" to describe the weapons, and said that they were used in an attack that injured five civilians in Shaqra on the morning of June 14, 1995. In this attack, shrapnel ripped into the abdomen of Fatima Zein, a woman of about sixty, while she was standing in front of her house; also wounded were Mahmoud Allan (shrapnel near his heart), his wife Souad, and their sons Ahmed, nine, and Muhamed, three. Human Rights Watch interviews, Shaqra, Lebanon, August 1995.

Human Rights Watch discussed the villagers' complaint with Timor Goksel, the senior political adviser of UNIFIL. He confirmed that "air burst" shells, fitted with proximity fuzes, had been fired into Shaqra, and said these weapons were a new concern of the peacekeepers. Human Rights Watch interview, Tyre, Lebanon, August 1995.

¹¹² U.N. Security Council, Letter Dated 7 May 1996 from the Secretary-General Addressed to the President of the Security Council, S/1996/337, 7 May 1996, Annex, para. 10(c). Appended to the letter is an Annex entitled "Report dated 1 May 1996 of the Secretary-General's Military Adviser concerning the shelling of the United Nations compound at Qana on 18 April 1996." Hereinafter *van Kappen Report*.

Immediately after the attack, Israeli officials apologized about the loss of civilian life but stressed that it was Hizballah, not Israel, that was responsible for the carnage. "This is not the first time that terrorists, during this operation and previous operations, fired from areas close to United Nations positions. There was no mistake on Israeli's part. When we are fired upon, we will fire back," chief of staff Gen. Amnon Shahak said.¹¹³ Prime Minister Peres expressed a similar viewpoint: "I am sorry that citizens of Lebanon were killed, but Hizballah is to blame."¹¹⁴

The anger and passion in Lebanon -- and throughout the Arab and Muslim world -- about the attack on Qana have not diminished. Attempts by Israeli government and military officials to explain the disaster left a number of conflicting statements and unanswered questions. First, why did Israeli officials cling with such consistency to the position that the IDF did not know that hundreds of civilians were sheltered in the Qana base, unless it was somehow to place blame on and discredit the U.N. peacekeepers? "We had no knowledge that there were civilians there," government spokesman Uri Dromi said on May 8, 1996.¹¹⁵ "I think it was a scandal that they were permitted into the camp without [the UN] letting us know about it," Prime Minister Peres said in a television interview the day before.¹¹⁶ Brig. Gen. Dan Harel, the IDF's head of artillery, also told reporters at U.N. headquarters in New York on May 6, 1996, that Israel had no knowledge that civilians were sheltered on the Qana base.¹¹⁷ But given the extremely close Israeli aerial reconnaissance over Lebanon during Operation Grapes of Wrath, and internationally televised boasts by Israeli military officials that pilots were able to pinpoint precisely and fire accurately at individual Hizballah fighters on the ground or in buildings, it is difficult to believe that the presence of hundreds of civilians at Qana went unnoticed.

A Lebanese UNIFIL employee who worked at the Qana base told Human Rights Watch that he brought his family there on April 12, the second day of the war. "The gates were closed. There were 300 people outside who wanted to come in. Over the next few days, civilians were allowed to enter the camp, and their number soon reached over 800," he said.¹¹⁸ But the IDF maintained that at the time of the attack, it "was unaware of the presence of Lebanese refugees inside the Qana camp" and that "aerial photographs of the camp from previous days showed no signs of a massive civilian presence in the camp."¹¹⁹ At least two high-ranking Israeli military officials, however, admitted that the IDF did in fact know that civilians were sheltered at U.N. bases throughout the south. "[W]e know that the posts of the U.N. forces in the area are shelters for the people," Maj. Gen. Matan Vilna'i, the deputy chief of staff, said on April 16. "Sometimes they are shooting Katyusha rockets from very close to the U.N. posts, and we understand this and [are] not shooting back in order not to hit the U.N. posts."¹²⁰ Maj. Gen. Moshe Ya'alon, the head of army intelligence, raised perhaps one of the most important questions about the entire incident: "The fact that civilians are evacuated from the villages into U.N. facilities was known to us from the second day of the operation. In the intelligence wing there was no discussion of whether there were two or six hundred civilians in Qana....The relevant question is, was it correct to open fire in such circumstances?"¹²¹

¹¹³ Derek Brown, "Bitter Aftertaste to Grapes of Wrath," *Guardian*, April 19, 1996.

¹¹⁴ *Ibid.*

¹¹⁵ David Osborne and Eric Silver, "U.N. storm as Israel faces indictment," *Independent*, May 9, 1996.

¹¹⁶ *Ibid.*

¹¹⁷ Anthony Goodman, "No Overflight of U.N. Camp During Shelling," *Reuter*, May 6, 1996.

¹¹⁸ Human Rights Watch interview, Qana, Lebanon, August 1996.

¹¹⁹ IDF Report, p. 4.

¹²⁰ Qol Yisra'el, Jerusalem, April 16, 1996, in FBIS, April 18, 1996, p. 32.

¹²¹ Derek Brown, "Gunners' cover is blown," *Guardian*, May 11, 1996. Brown reported that this statement was made seven days after the attack on Qana.

And what were the circumstances? Col. Wame Waqanivalagi, the Fijian commander of the Qana base, told Human Rights Watch that he was in his office when a call came in that six rounds of mortar had been fired at 1:55 p.m. by the Islamic Resistance, Hizballah's military wing. The firing was from a location 220 meters southwest of the center of the base, U.N. investigators later determined.¹²² The mortar, according to other UNIFIL officials, had an eight-kilometer range, too short to land inside the "security zone" occupied by Israeli and SLA forces. By the IDF's official account of what happened that afternoon, the mortar fire had placed an Israeli force on the ground in a "life-threatening" situation.¹²³ According to Maj. Gen. Vilna'i:

The mortars began falling 100 meters from the force, then 30 or 40 meters, with shrapnel falling right beside our soldiers. We acted in a matter of minutes to extricate the unit. In that time we had to understand what was going on, to relay orders and to stop the enemy fire.¹²⁴

According to the IDF, an "artillery emergency rescue fire mission" was then launched to extricate the force.¹²⁵ Although the IDF report did not specifically say so, it is reasonable to conclude that the Israeli force that came under Hizballah fire was located north of the security zone, one aspect of the circumstances surrounding the attack in Qana that was not publicly reported at the time. In addition, there was deep concern on Israel's part to avoid any of its soldiers falling captive to Lebanese guerrillas. As Maj. Gen. Herzl Bodinger, then-commander of the Israeli Air Force, pointed out after Operation Grapes of Wrath: "Another Ron Arad is the last thing we need[ed] in this country," a reference to the pilot who is still missing after his plane was shot down over Sidon in 1986.¹²⁶

¹²²van Kappen Report, para. 9(c).

¹²³ IDF Report, p. 2.

¹²⁴ Eric Silver, "Israel Blames Map Errors," *Independent*, May 6, 1996.

¹²⁵ IDF Report, p. 6.

¹²⁶ Joris Janssen Lok, "Israel defends record on 'Grapes of Wrath,'" *Jane's Defence Weekly*, June 5, 1996.

AT THE TIME OF OPERATION GRAPES OF WRATH, THE ISRAELI PUBLIC HAD NOT BEEN TOLD THAT ANY OF ITS TROOPS WERE ON THE GROUND NORTH OF THE ISRAELI-OCCUPIED ZONE. In May 1996, there was a report that a secret Israeli "death squad" was operating in Lebanese territory, targeting Hizballah. The story appeared in the weekly *Observer* (London) on May 19, but it was not confirmed.¹²⁷ In July 1996, UNIFIL publicly reported that Israeli ground forces had been operating in Lebanon north of the occupied zone, and that on at least two occasions during Operation Grapes of Wrath these units had planted mines and booby-traps.¹²⁸ In December 1996, the IDF revealed publicly the existence of a special forces unit, code-named *Egoz*, that operated within and beyond the occupied zone in Lebanon. Composed of several dozen volunteers from the elite Golani brigade, the unit was formed in February 1995 and began operations in Lebanon in July 1995, according to Maj. Gen. Amiram Levine, head of the army's Northern Command.¹²⁹ Denying that *Egoz* was a death squad, Gen. Levine said: "We needed at least one unit concentrated on and emphasizing special anti-guerrilla warfare.... Wherever Hizballah are acting or living, we are trying to go after them." Explaining why the IDF finally decided to disclose the existence of the special unit, Gen. Levine added: "We felt the time has come to give the soldiers the credit they deserve and let the public know that our soldiers serving in southern Lebanon are not sitting idle, but taking the war to the enemy."¹³⁰ The army said that *Egoz* had killed sixteen Hizballah members, had lost two of its own men, and was active during the April 1996 military conflict.¹³¹

The presence of an Israeli unit under fire deep inside Lebanon, in addition to Israel's clear concern that none of its soldiers be killed or captured by Lebanese guerrillas, may further explain the remarks of Maj. Gen. Vilna'i in a June 1996 interview. Referring to the Qana attack, and citing "very difficult conditions" such as "hilly terrain and the presence of civilians," he said that the IDF "had to adopt very strange and unusual procedures, which involve reacting with very short warning times."¹³² It had long been standard operating procedure in south Lebanon that shell warnings of imminent Israeli attacks were communicated to UNIFIL forces by the IDF.¹³³ It remains to be explained if the "strange and unusual procedures" employed on April 18 were the reason there were no shell warnings before the big Israeli artillery guns fired toward Qana.

After the guerrillas fired the mortar rounds, the Qana base filed an "incident report" with UNIFIL Operations, and issued a warning over the public address system for soldiers to don their flak jackets, Col. Wame told Human

¹²⁷ "Army spokesmen declined to comment on a report in yesterday's [London] *Observer* newspaper that Israeli has formed a commando death squad to find and kill Hizbullah officials and activists in Lebanon. A unit of the squad was reported to have triggered the disastrous artillery barrage on the U.N. base at Qana, when it asked for help on a search-and-destroy mission." Derek Brown, "Lebanon truce terms 'broken in Israeli raid,'" *Guardian*, May 20, 1996.

¹²⁸ UNIFIL Report, para.16.

¹²⁹ "Army lifts veil on secret anti-guerrilla unit in Lebanon," Agence France-Presse, December 4, 1996.

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Joris Janssen Lok, "Israel defends record on 'Grapes of Wrath,'" *Jane's Defence Weekly*, June 5, 1996.

¹³³ UNIFIL officers and soldiers told Human Rights Watch that the IDF customarily issued warnings prior to shelling in the vicinity of UNIFIL positions. This warning took the form of shortwave radio contact three to five minutes before shelling commenced, enough time for soldiers to don flack jackets or go into bomb shelters. Although no rules required such warnings, UNIFIL soldiers confidently relied upon them. In the event that shells landed within 200 meters of the perimeter of a UNIFIL base or position, there was an informal twofold signaling system to inform the Israelis to adjust or cease fire. First, two red flares would be fired. In addition, communications officers would inform UNIFIL headquarters at Naqoura, which would radio to the IDF's Northern Command, and the Northern Command in turn would radio the relevant artillery battalion to adjust or cease fire. Most UNIFIL officers felt that this system was reliable, with the one very noteworthy exception: the prolonged artillery fire at Qana. Human Rights Watch interviews, Tyre and Qana, Lebanon, May 1996 and August 1996.

Rights Watch. He said that the first incoming shells began to land near the mortar site about eight to ten minutes after the loudspeaker warning, at approximately 2:08 or 2:10 p.m. Then the base itself came under sustained fire.

According to Col. Wame, the first shell landed at the perimeter of the compound, near the main entrance, and destroyed two prefabricated buildings. The first three rounds knocked out electricity and communications. "Our positions in the hills were relaying to us what was happening. We were here waiting for death. There was nothing that we could do," he recalled. "There was a lot of screaming, buildings were burning.... We could not believe that our base was being attacked. The sound of the incoming shells, followed by the explosions, the sight of those killed, was beyond imagination. There were body parts everywhere," he said.¹³⁴

¹³⁴ Human Rights Watch interview, Oana, Lebanon, August 1996.

A UNIFIL civilian employee who was present during the attack, but did not wish to be named, told Human Rights Watch that the displaced civilians had been concentrated in eight locations on the base. The shelling totally destroyed three prefabricated buildings that housed about 240 people -- all that remained at the site at the time of a visit by Human Rights Watch representatives in August 1996 was a deep rectangular crater. "There were another 126 people inside Vanua house, over which a proximity shell exploded, killing about fifty-two people," he said. The total number of dead at Qana may never be known. "I counted seven-five [body] bags," another UNIFIL employee who participated in the rescue effort at the base told Human Rights Watch. "But there was more than one body in some of the bags. At night, dogs ate some of the remains. There were ninety-one bodies buried at the site, but the number of dead may be more -- the total may be closer to 105 or 106 people," he said.¹³⁵

Maj. Gen. Vilna'i blamed the peacekeepers for the continuation of the slaughter. "They never told us that the shells were falling inside the camp," he was quoted as saying.¹³⁶ But contemporaneous accounts by journalists who heard radio communications, and testimony from UNIFIL officers, contradict the general's claim. A high-ranking UNIFIL official told Human Rights Watch:

Our operations officer pressed the speed button [on his telephone] and told the Israelis about the attack. The shelling was continuing. Then they called back, and gave us a shell warning...while the shelling was in progress! We said that we knew there was shelling. We told them to stop the shelling.¹³⁷

A British journalist who was travelling in a U.N. humanitarian aid convoy at the time of the attack was about four miles away from Qana. He heard the radio traffic after the shelling began:

We could hear the Israeli rounds landing, great thumps, audible inside our thin-skin U.N. vehicle. It was exactly 2:10 pm when the radio crackled in the front of the truck. "Our headquarters are being shelled," a voice said, a Fijian voice with just a hint of anxiety. There was a confirmation from the UN's operations headquarters in Naqqoura -- and then the Fijian voice returned. "The rounds [shells] are falling here now," it said...It was now 2:12 pm. U.N. operations came back over the air. "We are contacting the IDF," the voice said, apparently an Irish officer. But the Fijian returned, desperate now. "Do you understand?" he shouted. "They are firing on us now. The headquarters is hit." We could hear that same thumping sound from across the valley as the rounds exploded on Qana. Back came the Fijian, so desperate that U.N. operations could not understand him.

It was now around 2:20 pm. The sun was high in the sky. Visibility was good. The distant sound of shells could still be heard. There had been six incoming rounds, then more. The guns I had heard were firing a shell every five seconds. A Lebanese U.N. liaison man came on the line from the burning Qana U.N. headquarters. "People are dying here. We need help."¹³⁸

¹³⁵ Human Rights Watch interview, Tyre, Lebanon, August 1996.

¹³⁶ Eric Silver, "Israel Blames 'Accident' on Map Errors," *Independent*, May 6, 1996.

¹³⁷ Human Rights Watch interview, Tyre, Lebanon, August 1996.

¹³⁸ Robert Fisk, "Desperate Voices Go Unheard as Shells Rain Down," *Independent*, April 19, 1996.

To the knowledge of Human Rights Watch, Israeli military officials never substantively addressed UNIFIL's claims that there was no warning from the IDF in advance of the shelling of the base, and the issue was not even mentioned in the official IDF report. At a media briefing at the defense ministry in Tel Aviv with Prime Minister Peres on April 18, Lt. Gen. Amnon Shahak said: "We also informed the U.N. we planned to open fire -- there is a mechanism where every time such a thing happens we inform the U.N. first."¹³⁹ He also said at a press conference in Tel Aviv that day that "the U.N. was informed as quickly as possible" about the shelling, without indicating if this meant that the warning was communicated to UNIFIL in advance of the attack.¹⁴⁰ Even if Gen. Shahak's first assertion were true (and it is contradicted by the testimony and other information provided in this report), this still leaves an unanswered question: why did the IDF not adjust or cease its fire after the Northern Command was notified that the Qana base was under direct attack?

The Israelis also repeatedly charged that Hizballah fighters had access to the Qana base and had shielded themselves there after firing the mortar. "It is very strange that UNIFIL allowed shots to be fired from 150 meters away from the camp, and that it allowed Hizballah members and their families to hide within the camp," Prime Minister Peres told reporters on May 9.¹⁴¹ UNIFIL personnel at Qana vigorously disputed both charges. "Every time there is a shelling, civilians come to the gate and want to come in....Never were armed people inside. It's well known that we do not allow this. Hizballah knows this very well," Col. Wame told Human Rights Watch. While the base was packed with civilians, soldiers controlled access. "The men needed a piece of paper from the military police to go out, if they wanted to leave and check their houses. The women were allowed to come and go freely," a UNIFIL employee said in a separate interview.¹⁴²

Col. Wame added that as soon as the Israelis started shelling the base, "we locked the gates." It was not until the attack was over that the front and rear gates were opened, he said. U.N. soldiers from nearby battalions, journalists, relief workers and others came streaming in. Among them were one or two uniformed Hizballah guerrillas, who arrived to check on their families. They were seen screaming and crying in grief when they saw the carnage. These men were identified by Fijian soldiers as among those who had earlier fired the mortar rounds from the cemetery.

Col. Wame also pointed out that UNIFIL peacekeepers had risked their lives when they asked Hizballah guerrillas to move further away from U.N. positions. On the afternoon of April 15, 1996, a Fijian officer who served as assistant operations officer at the base visited guerrillas at a site about 600 meters to the east, where Katyushas had been fired earlier that day and on previous days. According to Col. Wame, the officer was summarily told to leave and then, without further discussion, was shot in the chest at close range with a 9mm pistol, wounding but not killing him. Two days later, two Nepalese soldiers on a similar mission were injured when guerrillas threw a grenade at them in the village of Kafra.¹⁴³

¹³⁹ Channel 2 TV, Jerusalem, April 18, 1996, in FBIS, April 19, 1996, p. 20.

¹⁴⁰ "Israeli Army Chief Says U.N. Forewarned of Shelling," Reuter, April 18, 1996..

¹⁴¹ Marilyn Henry and David Makovsky, "U.N. deliberately sheltered Hizballah at Kana compound," *Jerusalem Post*, May 10, 1996.

¹⁴² Human Rights Watch interviews, Qana, Lebanon, August 1996.

¹⁴³ UNIFIL reported that a Fijian officer and two Nepalese soldiers "were injured by Islamic Resistance elements in response to the Force's attempts to prevent the latter from launching rockets from the vicinity of UNIFIL positions." UNIFIL Report, para. 22.

The most contentious issue regarding Qana is whether the Israeli attack was accidental or deliberate, and whether the shells that landed inside the base were stray shells -- known as artillery scatter -- from the barrage launched toward the Hizballah mortar site, or whether these shells were part of a separate firing. Here, the unofficial views of UNIFIL personnel who serve on the ground in south Lebanon are relevant. Col. Wame showed Human Rights Watch representatives a large, carefully marked, color aerial photograph of the compound, which indicated where and in what sequence the shells exploded on April 18. Although he did not make an argument that the attack was deliberate, he was convinced that the shells that fell inside his base were not the result of artillery scatter, as the IDF has claimed. "The shell impacts were too close together to have been fired from one gun. The cemetery [meaning, the Israeli artillery barrage that hit the cemetery from which the Hizballah mortar was fired] was a totally different attack," he said. He pointed out on his photograph that the location of the shells that fell inside the base illustrated the artillery firing principle known as "bracketing" -- firing first at the approximate perimeters of a target and then converging on the target itself, in this case the center of the base.¹⁴⁴

Another senior UNIFIL official also was convinced that the Qana attack was not a case of artillery scatter. "It was target switching. There is no doubt that the target had switched," he told Human Rights Watch. He too did not argue that the base was deliberately attacked, but said that he found the Israeli shelling negligent: "They knew that they were firing near a U.N. base. The real threat was the mortar, and it was a case of not caring. It was a Northern Command decision to fire into a built-up area. There is a fine line between a lack of care and negligence, and deliberate killing in an intentional attack."¹⁴⁵

So what happened at Qana? The answers are in Israel. The full facts will never be known unless the Israeli cabinet establishes an independent commission of inquiry, as it did in following the September 1982 massacre of hundreds of Palestinian civilians at Sabra and Shatilla in Beirut,¹⁴⁶ or until Israeli military commanders and officers who were involved either speak to the press or publish their memoirs. Several things are certain, however. There had been a pattern of harassment and interdiction of UNIFIL's relief work during the conflict, and a similar attack on the UNIFIL base at Majdal Zoun the day before. But at Qana there was an immediate tactical reason for the shelling -- to stop Hizballah mortar fire at Israeli ground forces and extricate the soldiers -- which went beyond the IDF's concerted actions elsewhere to hamper UNIFIL operations. These distinct operational goals may have converged at Qana. The Israeli claim that UNIFIL sheltered Hizballah fighters and their families may also have contributed to a decision to risk massive civilian casualties at the packed base in response to the mortar attack. Under the circumstances prevailing at the time, the Israeli artillery barrage toward Qana was, at minimum, a reckless and negligent attack.

Violations of International Humanitarian Law

¹⁴⁴ A copy of this photograph is on file at Human Rights Watch.

¹⁴⁵ Human Rights Watch interview, Tyre, Lebanon, August 1996.

¹⁴⁶ The massacre, which claimed 700 to 800 victims according to the IDF, occurred between September 16 and September 18, 1982. The Israeli cabinet decided on September 28, 1982, to establish a commission of inquiry, and a three-member panel was appointed by the president of the Supreme Court, pursuant to the Commission of Inquiry Law of 1968. The commission held sixty sessions, heard fifty-eight witnesses, and completed its written report on February 7, 1983. The commission determined responsibility for senior Israeli government and military officials, including personal responsibility for then-Minister of Defense Ariel Sharon "for not ordering appropriate measures for preventing or reducing the danger of massacre as a condition for the Phalangists' entry into the camps," and "a breach of duty" by then-IDF Chief of Staff Lt. Gen. Rafael Eitan for "not consider[ing] the danger of acts of vengeance and bloodshed being perpetrated against the population of the refugee camps in Beirut" and not "order[ing] the adoption of the appropriate steps to avoid this danger." See Yitzhak Kahan, Aharon Barak, and Yona Efrat, *The Commission of Inquiry into the Events at the Refugee Camps in Beirut. Final Report*, 1983.

The laws of war required Israeli forces to take "constant care" in order "to spare the civilian population" during the conduct of military operations.¹⁴⁷ Israeli military planners and decision makers were further bound to choose means and methods of attack that would avoid or minimize harm to civilians.¹⁴⁸ The norms set by these and other laws of war also applied to the conduct of military operations by Lebanese guerrillas.¹⁴⁹

The artillery shelling of the U.N. base at Majdal Zoun represented a gross violation of a basic rule of international humanitarian law, which requires that parties to the conflict distinguish between civilians and military objects and attack only military objectives.¹⁵⁰ The shelling also was indiscriminate because, based on information gathered by Human Rights Watch, it was not directed at a specific military objective.

In contrast, the circumstances surrounding the artillery shelling at Qana necessitate a different analysis under the laws of war. By all accounts, there was a legitimate military target (the guerrillas' mortar) in extremely close proximity to the base, and by the Israeli account the firing of the mortar had placed an Israeli unit inside Lebanon in a life-threatening situation. This did not, however, relieve Israel of its obligation to spare the civilian population in its counterfire. The laws of war specify that it is the responsibility of military commanders to take necessary precautions to spare the civilian population prior to launching any attack, irrespective of whether the attack is offensive or defensive in nature. Article 57 of Protocol I specifies various precautionary measures that should be undertaken prior to an attack. The authoritative ICRC *Commentary* on Article 57 notes that its provisions apply "to all attacks, whether they are acts of aggression or a response to aggression. The fact that a Party considers itself to be the victim of aggression does not exempt it from any of the precautions to be taken in pursuance of this article. Obviously, this does not prejudice in any way the responsibility which may be incurred, at a completely different level, for having committed an act of aggression."¹⁵¹ IDF Chief of Staff Maj. Gen. Amnon Shahak, at a press conference in Kiryat Shmona with Prime Minister Peres on April 12, indicated that Israel did not intend to respect these rules. Citing offensive military activities by guerrillas in close proximity to civilians, Gen. Shahak said: "Hizbullah fires at us from positions located next to schools and civilian homes, and then calls on us to avoid harming civilians. We will attack any Hizbullah target we choose, even if it is located in a populated area. I hope the population understands the price it is compelled to pay on Hizbullah's account."¹⁵²

¹⁴⁷ Article 57(1) of Protocol I states: "In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects."

¹⁴⁸ ARTICLE 57 (2) (a) (ii) STATES THAT THOSE WHO PLAN OR DECIDE UPON AN ATTACK SHALL "TAKE ALL FEASIBLE PRECAUTIONS IN THE CHOICE OF MEANS AND METHODS OF ATTACK WITH A VIEW TO AVOIDING, AND IN ANY EVENT TO MINIMIZING, INCIDENTAL LOSS OF CIVILIAN LIFE, INJURY TO CIVILIANS AND DAMAGE TO CIVILIAN OBJECTS."

¹⁴⁹ See "Military Activities in South Lebanon," below, for a discussion of violations of the laws of war by the guerrillas.

¹⁵⁰ Article 48 of Protocol I states: "In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives."

¹⁵¹ International Committee of the Red Cross, *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Geneva, Martinus Nijhoff Publishers: 1987), p. 679.

¹⁵² "Peres: Hizbullah Will Not Gain Anything from Israel by Using Force," Israel Line, Consulate General of Israel in New York, April 12, 1996.

The absence of precautions prior to an attack in close proximity to both a large town and the U.N. base that was located there, as well as the means and methods of attack chosen by the IDF (a sustained artillery barrage without lines of sight to the target), put Israel in violation of international humanitarian law. Israel did not fulfill its obligations to take constant care to spare the civilian population in the conduct of a military operation to extricate its soldiers, nor did it take precautions to avoid or minimize civilian casualties. First, the artillery was fired without the customary warnings issued by the IDF in advance of attacks near UNIFIL positions. Second, the attack continued even after UNIFIL notified the Israeli military that the base was being shelled. Third, and perhaps most egregiously, Israel's claims that it had no knowledge that hundreds of civilians were sheltered at the Qana base are simply not credible. The decision of those who planned the attack to choose a mix of high-explosive artillery shells that included deadly anti-personnel shells designed to maximize injuries on the ground -- and the sustained firing of such shells, without warning, in close proximity to a large concentration of civilians -- violated a key principle of international humanitarian law.¹⁵³ The particular tragedy at Qana was that this incident was not unique in its general features. As this report indicates, the Israeli military on previous occasions had violated the laws of war by not taking precautions to spare Lebanese civilians from death and injury prior to launching attacks, and indeed by showing an appalling willingness to conduct military operations in which civilians would bear the brunt of the suffering.

MILITARY OPERATIONS BY LEBANESE GUERRILLA FORCES

Lebanese guerrillas who plan and carry out military activity against Israeli and SLA soldiers and other military targets in occupied south Lebanon are bound by the requirements of international humanitarian law. The guerrillas are in blatant violation of the laws of war when they deliberately target the civilian population inside Israel. Hizballah political leaders have consistently and publicly asserted that the guerrillas have a right to retaliate militarily against Israeli civilians in reprisal for Lebanese civilian deaths caused by Israeli military forces. At the beginning of Operation Grapes of Wrath, Hizballah's secretary-general, al-Sayyid Hassan Nasrallah, promised residents of northern Israel that reprisals would be forthcoming: "What concerns us is that when our civilians are touched your civilians will be touched, too, no matter what consequences they talk about. Yesterday our civilians were the target of aggression, a clear and flagrant aggression. We will respond to the aggression and will bombard the settlements in northern Palestine."¹⁵⁴ On April 14, a Hizballah spokesman told the Reuter news agency in Beirut: "We are firing dozens of Katyusha rockets into Zionist settlements. The northern settlements will be hit continuously and heavily and we will transform northern Israel into hell."¹⁵⁵

A total of 639 Katyusha rockets were fired into Israeli territory during Operation Grapes of Wrath.¹⁵⁶ About 28 percent of the total were launched on April 14 (eighty-one), the day after an Israeli helicopter attacked an ambulance in Mansouri, killing six civilians, and on April 19 (ninety rockets), the day after nine civilians were killed in a house in Upper Nabatiyeh in the early morning and over one hundred civilians perished later that afternoon in Qana.

¹⁵³ This principle, as articulated in Article 57(2)(a) (ii) of Protocol I, states that those who plan or decide upon attacks must "take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects."

¹⁵⁴ Voice of the Oppressed, Ba'labakk, April 12, 1996, in FBIS-NES-96-072, April 12, 1996. Human Rights Watch is not aware of any claims by Hizballah leaders or spokesmen that military targets in northern Israel were the objects of attack when Katyusha rockets were fired across the border.

¹⁵⁵ "Hizballah Says It Will Make Northern Israel 'Hell' " Reuter, April 14, 1997.

¹⁵⁶ The number of rockets fired, by date, are as follows: April 12: forty-one; April 13: eleven; April 14: eighty-one; April 15: sixty-one; April 16: fifty-nine; April 17: sixty-seven; April 18: thirty-eight; April 19: ninety; April 20: sixty-seven; April 21: twenty-seven; April 22: fifty-four; April 23: thirty; April 24: thirty; April 25: forty-two; April 26: thirty-nine; and April 27: nine. IDF Spokesman Lt. Col. Moshe Fogel communication to Human Rights Watch, June 23, 1996.

Indiscriminate Attacks in Northern Israel

The prevailing view of Israeli official and unofficial sources interviewed by Human Rights Watch was that the Katyusha attacks during Operation Grapes of Wrath were aimed at Israeli civilians. Ninety of the 639 Katyusha rockets fired into Israel landed in the vicinity of the northern Israeli city of Kiryat Shmona, fifty-eight of them in the city proper, all causing injury or property damage, according to Israeli sources interviewed by Human Rights Watch.¹⁵⁷ The three serious Israeli civilian casualties during the conflict were all residents of Kiryat Shmona.

According to Yedidya Freudenberg, head of emergency services in Kiryat Shmona, there were direct hits on eleven houses in Kiryat Shmona, and seven of them sustained heavy damage. Two of the homes were totally destroyed, and two were completely destroyed by fires ignited when the Katyushas exploded. Another 250 homes were moderately damaged, and 1,757 were lightly damaged. He added that most structures that were not directly hit by rockets were damaged by shrapnel. Freudenberg told Human Rights Watch that 2,018 homes were damaged in the city, out of a total of 5,800 homes. The area of the Havradim housing development alone, home to 2,100 people, was hit eight times. Three hundred factories and manufacturing plants were also damaged, seven of them badly. Most of these buildings were located within the city's industrial zone, where rockets fell on April 19, April 23, and April 26. Freudenberg described the extent of the damage:

The worst destruction was to homes and businesses. Also seven schools and day-care centers in the city were damaged. In terms of the length of the operation, the number of rockets that fell, and the amount of property damage sustained, these attacks were much worse than during Operation Accountability in 1993. Of course, in 1993, two of our residents were killed and there is no way to factor such a loss. The main thing to remember is that these attacks [were] committed against families, against civilians.¹⁵⁸

Kiryat Shmona's Gimel neighborhood was without phone service for four days (April 13, April 16, April 19 and April 24), and various neighborhoods suffered power outages of between three to eight hours daily throughout much of Operation Grapes of Wrath, Freudenberg told Human Rights Watch. Nearby Kibbutz Kfar Giladi was without electricity for twenty-four hours on April 18.¹⁵⁹ The total monetary losses from damage to electricity and telephone systems in northern Israel reportedly reached 1 million NIS (U.S. \$280,000), according to the Israeli Income and Property Tax Commission.

According to Gideon Giladi, head of security at Kibbutz Kfar Giladi, which is located about five kilometers north of Kiryat Shmona: "At least eighteen rockets fell on our property. By the third day, we could see from the map charting rocket hits that the kibbutz itself was the target."¹⁶⁰ Other settlements in the Panhandle region of the Galilee also came under indiscriminate fire, particularly settlements surrounding Kiryat Shmona to the west (Margalioth and Menara), the northeast (Kfar Giladi and Ma'yan Baruch), and the southwest (Yiftah, Malkiyya, and Keren Naftali). The

¹⁵⁷ Since 1968, including the period of Operation Grapes of Wrath, a total of 3,839 Katyushas have reportedly fallen in Kiryat Shmona. Eighteen people have been killed; 310 injured (seventeen of them during Operation Grapes of Wrath); and 175 treated for shock (fifty-nine of them during Operation Grapes of Wrath). A total of 4,857 houses and 165 cars have been damaged since 1968 (2,018 houses and fifty cars during Operation Grapes of Wrath). Human Rights Watch interview with Yedidya Freudenberg, head of emergency services in the Kiryat Shmona municipality, Kiryat Shmona, Israel, June 1996. Hereinafter Freudenberg interview.

¹⁵⁸ Freudenberg interview.

¹⁵⁹ Human Rights Watch interview with Gideon Giladi, head of security at Kibbutz Kfar Giladi, Kibbutz Kfar Giladi, Israel, June 1996.

¹⁶⁰ Human Rights Watch interview, Kibbutz Kfar Giladi, Israel, June 1996.

central Galilee (Ma'alot and Tarshicha) suffered slightly fewer attacks; while the Western Galilee was the safest. The pattern reflects the degree of IDF control over adjacent areas inside Lebanon from which rockets were fired.¹⁶¹

The home of the Sabagi family in the cooperative village of Margalioth, located a few kilometers west of Kiryat Shmona, was damaged by shrapnel on April 18, after a rocket fell on their chicken coop, about thirty-five meters from the house. Rivka Sabagi recalled:

¹⁶¹ Human Rights Watch interview with Lt. Col. Moshe Fogel, IDF Spokesman, Tel Aviv, Israel, June 13, 1996.

When I came back to the house afterwards, I couldn't believe it. The walls were torn up and there were holes in most of the living room furniture. The television had exploded and glass was everywhere. The damage came to about \$11,000, which we will be compensated for.¹⁶²

In the Katyusha attacks that preceded Operation Grapes of Wrath, the Azulai family of Kiryat Shmona sustained \$100,000 worth of damage to their home on April 9, 1996, when a Katyusha hit an electricity pole about five meters from their house. "It looked like a bomb had gone off in the living room," said Yitzhak Azulai, a local textile worker and the father of five children. "All eight rooms were damaged. The roof was destroyed and almost all of the windows were broken by the blast. The bedroom wall looked like someone had taken a machine gun to it -- it was full of holes from flying shrapnel."¹⁶³

Terrorizing and Targeting the Civilian Population

The IDF told Human Rights Watch that, particularly at the beginning of Operation Grapes of Wrath, the Katyusha attacks appeared timed to yield maximum casualties: rockets were fired in the early morning, when civilians set out for work and school, and in the evening when residents returned home.¹⁶⁴ But residents of the north said that after the first three days, the rocket fire became more sporadic. "Once they knew we were in the shelters, they fired at all hours to keep us guessing," said Ahud Orli of Kiryat Shmona. "This made it impossible to know when it might be safe to come out."¹⁶⁵

The Katyushas typically were fired in volleys of between two to seven at a time. On April 16, for example, six rockets landed in a Kiryat Shmona neighborhood at the same time. The next day, pairs of rockets rained on different parts of the city throughout the day.¹⁶⁶ "It's a war of nerves," one resident told Human Rights Watch. "You never know where or when the next Katyusha will land." Dan Frank, a restaurant owner in Kiryat Shmona, emphasized how the Katyusha attacks terrorized the civilian population:

¹⁶² Human Rights Watch interview, Margalioth, Israel, June 1996.

¹⁶³ Human Rights Watch interview, Kiryat Shmona, Israel, June 1996.

¹⁶⁴ Human Rights Watch interview with Lt. Col. Moshe Fogel, IDF Spokesman, Tel Aviv, Israel, June 13, 1996.

¹⁶⁵ Human Rights Watch interview, Kiryat Shmona, Israel, June 1996.

¹⁶⁶ Other examples of the pattern of rocket attacks in Kiryat Shmona are as follows: on April 9, seven rockets fell in the city at one time; on April 18, four fell together, and four single rockets landed in different parts of the city in the course of the day; on April 19, two rockets fell together and another eight fell throughout the city over the course of the day; on April 22, four rockets fell in pairs; on April 23 eight rockets fell, including one pair and six singles. Freudenberg interview.

It's true that the Katyushas cause damage and have even killed people in the past. But you can't really argue that the rockets are a military threat to Israel. The point of the Katyushas is simply to destroy the morale of people here. It's a form of terrorism -- holding a civilian population hostage to the policies of its government. On this count, the rockets are quite effective. People here are indeed terrorized. My six-year-old daughter is afraid of every noise she hears. Lots of kids here have severe problems in school -- they can't concentrate, they have nightmares. Living in Kiryat Shmona you wake up every morning and check to see that you're still alive. That's the point of the rockets.¹⁶⁷

Compared to Operation Accountability in 1993, more Israelis chose temporary shelter outside the range of Katyusha fire instead of staying behind in shelters. Although no IDF evacuation orders were issued, tens of thousands of Israelis fled the north, most of them independently and some with the assistance of municipalities and local councils.¹⁶⁸ The displacement of civilians was most pervasive in Kiryat Shmona. In safer areas and in kibbutzim, many residents remained, except for some infirm and elderly who were evacuated.

In Margalioth, more than 90 percent of the 450 inhabitants fled to the south.¹⁶⁹ Rivka and Yisrael Sabagi, a middle-aged couple, stayed through the first week of Operation Grapes of Wrath, then headed for Netanya as part of the organized evacuation. Mrs. Sabagi told Human Rights Watch:

At first I was not afraid. Katyushas here are like storms: what can you do? Besides, we had to maintain our chicken coop. I sent my daughter to relatives in Haifa and my husband and I stayed to work. We finally left on the morning of April 18. It was just too much. That night a rocket landed on the chicken coop, killing thousands of birds and causing \$95,000 worth of structural damage. We got a call from someone who had stayed behind, telling us that our property was hit. I cried the whole way home, wondering how bad the destruction was, thinking about our thirty-eight years here trying to build something for ourselves and the kids. Thank God no one was here when it happened. We probably would have been hurt if we had been at home.¹⁷⁰

Sarah Krimling, a resident of Metullah on the northern border, chose not to evacuate:

For me it's harder to be away, no matter how frightening the situation is at home. During Grapes of Wrath I left for two days, but returned because I felt terribly cut off. At least in Metullah you always know exactly what's happening. Any child here can tell the difference between the sound of our artillery and theirs. Being able to keep tabs on the situation, to count every explosion, gives you an illusion of control. It helps combat the terror. It's traumatic either way -- fleeing or staying put. I suppose it depends on what kind of stress you are better able to cope with.¹⁷¹

¹⁶⁷ Human Rights Watch interview, Kiryat Shmona, Israel, June 1996.

¹⁶⁸ In Kiryat Shmona, for example, an estimated 70 percent of the inhabitants had evacuated by April 14. Most returned only after the cease-fire on April 27. On April 11, the municipality began organizing the priority evacuation of children, the disabled, and the elderly. But in practice, most families left in groups, having learned from experience that staying together is less traumatic. In other parts of the Galilee, approximately 2,000 people fled within the first few days of the fighting. In addition, several thousand children, most of them accompanied by one parent, were sent to hostels, private homes, hotels and army recreation facilities as part of a first-of-its-kind government-assisted relocation effort.

¹⁶⁹ Human Rights Watch interview with Shoshana Shemesh, head of emergency services, Margalioth, Israel, June 1996.

¹⁷⁰ Human Rights Watch interview, Margalioth, Israel, June 1996.

¹⁷¹ Human Rights Watch interview, Metullah, Israel, June 1996.

Civilian Casualties and Damage

No Israeli civilians were killed as a result of the Katyusha attacks but sixty-two were injured, three of them seriously, and another sixty-five were treated for shock, according to information provided to Human Rights Watch by the IDF spokesman.

Three Israeli civilians were seriously injured by Katyushas that landed in Kiryat Shmona. Seventeen-year-old Hannah Azulai was asleep in her family's home when a rocket hit an electricity pole about five meters from the house on April 9. Shrapnel blew out the window and hit Azulai in the thigh. She was rushed to Rebecca Sieff Hospital in Safed in serious condition, after severe hemorrhaging.¹⁷² Hani Chemi, who is married to Kiryat Shmona Deputy Mayor Yossef Chemi, was seriously injured on April 12 when a rocket exploded two meters from her car. "She wasn't burned, even though the gas tank ignited," recalled Ayal Abromov, who arrived at the scene while Chemi was still trapped in the burning car. "But the whole back of her head was bloody."¹⁷³ Chemi was evacuated by helicopter to Rambam Hospital in Haifa. She suffered serious internal injuries and severe but temporary memory loss.¹⁷⁴ Twenty-nine-year-old Shula Ben Hamo was also flown to Rambam Hospital in serious condition. She was wounded by shrapnel in her face and neck after a rocket exploded about thirty meters away from the car in which she was riding on April 18.¹⁷⁵

Another fourteen people in Kiryat Shmona were treated for light injuries from shrapnel, and fifty-nine others for shock.¹⁷⁶ Thirty-three-year-old Ayal Abromov, a mechanic in Kiryat Shmona, was one of the dozens of Israelis who was lightly wounded. He described the circumstances of the attack that injured him:

It was April 24 -- Israeli Independence Day -- and I was going to get a cake for a small celebration; one of those attempts to maintain a semblance of normal life. I was driving north out of Kiryat Shmona when a rocket crashed into the oncoming lane, about seven meters from my car. I heard the explosion -- I still hear it in my sleep -- and then all of the windows in the car shattered. I was hurled into the passenger seat. The car was still speeding down the road, rocking back and forth crazily from the impact of the rocket. I managed to get back into the driver's seat and gain control of the car. Luckily the roads were deserted. I drove myself to the emergency medical station where they removed shrapnel from my eye. I still have muscle spasms in my left eye, and intermittent hearing loss and extensive pain and ringing in my ears.¹⁷⁷

¹⁷² Human Rights Watch interview with her father, Yitzhak Azulai, Kiryat Shmona, Israel, June 1996.

¹⁷³ Human Rights Watch interview, Kiryat Shmona, Israel, June 1996.

¹⁷⁴ Freudenberg interview.

¹⁷⁵ Ibid.

¹⁷⁶ Ibid.

¹⁷⁷ Human Rights Watch interview, Kiryat Shmona, Israel, June 1996.

The Israeli Finance Ministry calculated the damage caused by Katyushas at 170 million NIS (\$47.6 million).¹⁷⁸ The Israeli Income and Property Tax Commission estimated that approximately 2,000 houses and apartments in the Galilee were damaged: over half of them (some 1,100 units) sustained light to moderate damage, primarily of windows and siding, while 900 sustained more serious structural damage, according to information provided to Human Rights Watch by the commission.¹⁷⁹

Israeli residents of the north stressed the financial impact of the Katyusha attacks on the local work force. "Property destruction, whether to homes or businesses, [was] not the main cause of financial hardship," said Amnon Kadri, who runs a gas station on the outskirts of Kiryat Shmona. "For most people I know, the biggest factor [was] lost work days."¹⁸⁰ The seventeen-day military conflict brought to thirty-two the total number of lost work days in Kiryat Shmona in 1996, according to Yedidya Freudenberg. Throughout the areas of northern Israel visited by a Human Rights Watch representative, residents confirmed that lost work days were the most significant financial liability of the Katyusha attacks. Kibbutz Kfar Giladi, for example, lost nearly a half-million dollars because its chalk and optics factories were forced to suspend operations. "The factories themselves were not damaged," commented Gideon Giladi. "But we had to stop work for two-and-a-half weeks -- and continue to pay people. Our guest house business, which wasn't hit either, nevertheless lost more than \$15,000." The Israeli Hotel Association reported a one-third drop in national tourism, which it attributed to hostilities in the north. The Association reported that the tourism industry in the north suffered a revenue loss of 7.5 million NIS (\$2.1 million).¹⁸¹

Violations of International Humanitarian Law

The Katyusha attacks terrorized the civilian population in northern Israel, and forced the displacement of tens of thousands of residents. Katyusha rockets are inaccurate weapons with an indiscriminate effect when fired into areas where civilians are concentrated. The use of such weapons in this manner is a blatant violation of international humanitarian law. In addition, when guerrillas fired the rockets in reprisal for attacks by Israeli military forces that killed or injured Lebanese civilians, they committed another grave violation of the laws of war.¹⁸²

Military Activities in South Lebanon

¹⁷⁸ An estimated 120 million NIS (\$33.6 million) in damage was sustained by businesses and 50 million NIS (\$14 million) by homes and non-commercial properties. This figure does not include damages to state-owned property. Damage was categorized as either "direct" (any damage to the structure or content of a home or business resulting from Katyusha fire) or "indirect" (financial losses sustained by businesses due to lost work days). By June 18, 1996, 77 million NIS (\$21.56 million) in compensation had been paid to 3,834 separate businesses in commerce and services, agriculture and tourism; these payments included workers' wages. By June 18, 1996, another 31 million NIS in compensation (\$8.68 million) had been paid to 2,528 private citizens. Sarit Giladi, spokesperson, Israeli Income and Property Tax Commission, in a communication to Human Rights Watch, June 20, 1996.

Human Rights Watch requested statistics about Lebanon's economic losses during Operation Grapes of Wrath from the Lebanese government, in order to include the information in this report. Despite repeated requests to the Embassy of Lebanon in Washington, D.C., this information was not provided as this report went to press.

¹⁷⁹ The Israeli Income and Property Tax Commission characterizes "damage" as any destruction caused by a Katyusha, from a broken window to the total destruction of a house. The discrepancy between the commission's statistics and those provided to Human Rights Watch in Kiryat Shmona, cited above, stems from the fact that an additional 618 reports of damage were filed in Kiryat Shmona after the official tax commissioner's count of 1,400 homes damaged in the city, Yedidya Freudenberg explained.

¹⁸⁰ Human Rights Watch interview, Kiryat Shmona, Israel, June 1996.

¹⁸¹ Haim Shapiro, "One-third drop in tourism feared," *Jerusalem Post*, April 22, 1996.

¹⁸² Article 51(6) of Protocol I states: "Attacks against the civilian population or civilians by way of reprisals are prohibited."

UNIFIL sources in south Lebanon told Human Rights Watch that during Operation Grapes of Wrath the guerrillas generally fired Katyushas from protected valleys or open fields adjacent to or outside villages. "You can't fire a Katyusha from inside a village," one source said. He did note, however, that there had been instances during Operation Grapes of Wrath when guerrillas fired from inside villages with SA-7 anti-aircraft missiles and AK-47s "when helicopters came close."¹⁸³ Human Rights Watch is unaware of any documentation provided by Israel to substantiate that Katyusha rockets were fired from inside towns or villages in south Lebanon occupied by civilians during Operation Grapes of Wrath. Timor Goksel, the senior UNIFIL political advisor in Lebanon, told Human Rights Watch in October 1993 that, in his many years of experience with UNIFIL, he was unaware of the firing of Katyushas from inside villages.¹⁸⁴

Human Rights Watch did obtain confirmation from one Lebanese guerrilla, however, that Katyusha rockets were fired during Operations Grapes of Wrath from at least one village that he claimed had been emptied of civilians. The guerrilla, whose wife was killed in Operation Accountability in 1993, said that he and other fighters in Adchit had fired Katyusha rockets at northern Israeli settlements, and anti-aircraft guns at Israeli aircraft and helicopters. Asked if they fired from within the village, he responded, "Once the civilians left -- yes, we fired from here and everywhere," sweeping his arm to indicate the surrounding hills. "We fired at the villages of Kefar Yuval, Safad, Jada'un, Nahiriyyah, and Kiryat Shmona.... We have excellent maps of northern Israel." Asked if these were military targets, he responded: "They are Israeli targets. They hit our villages, we hit theirs."¹⁸⁵

But as the investigation of the events leading up to the Israeli artillery barrage on Qana makes clear, the guerrillas did launch rockets and mortar from sites near the packed U.N. base. The U.N. report on Qana documented that the guerrillas carried out the following military operations near the base on April 18: firing two or three rockets between noon and 2:00 p.m. from a location 350 meters southeast of the base; firing four or five rockets between 12:30 and 1:00 p.m. from a location 600 meters southeast of the base; and firing five to eight mortar rounds from a location 220 meters southwest of the center of the base at about 1:45 p.m.¹⁸⁶ The mortar, according to what witnesses told the U.N. investigators, "was installed there between 1100 and 1200 hours that day, but no action was taken by UNIFIL personnel to remove it. (On 15 April, a Fijian had been shot in the chest as he tried to prevent Hezbollah fighters from firing rockets.)"¹⁸⁷

Lebanese civilians sheltered at the Qana base clearly were sensitive to the potential danger created by the close proximity of the guerrillas' military equipment and activities. According to a Fijian officer interviewed by Human Rights Watch, when Lebanese women sheltered at the base learned of the shooting of the Fijian soldier on April 15, "they offered to go and sit at the site to stop [the guerrillas] from firing."¹⁸⁸ The site from which the rockets were fired on April 15 was about 220 meters from the base, Human Rights Watch learned. Human Rights Watch also learned that, in incidents such as these, patrols would be sent out to negotiate with the guerrillas to relocate to a distance further away from the base, so that the base itself would not draw Israeli counterfire. It was during the course of such a negotiation that the Fijian officer was shot. Human Rights Watch was also informed that, in the past, the Fijian peacekeepers had called upon Lebanese army soldiers stationed in a small office across the road from the base to help negotiate with the fighters, and that the Lebanese soldiers had in the past escorted the fighters away without incident.

¹⁸³ Human Rights Watch interview, Tyre, Lebanon, August 1996.

¹⁸⁴ See Human Rights Watch, *Civilian Pawns*, p. 85.

¹⁸⁵ Human Rights Watch interview, Adchit, Lebanon, May 1996.

¹⁸⁶ van Kappen Report, paras. 9(a)-9(b).

¹⁸⁷ van Kappen Report, para. 9(c).

¹⁸⁸ Human Rights Watch interview, Qana, Lebanon, May 1996.

Human Rights Watch obtained information about the guerrillas' military operations near the Qana base on April 18, prior to the Israeli artillery barrage. A Fijian sentry on duty at the time, who was interviewed in the presence of an officer, said that he recorded two Katyusha rockets and eight rounds of mortar fired from a secluded, low-lying spot near a small cemetery that is across the road, behind a block of homes and apartments, and situated below the Qana base. The sentry could not see the guerrillas themselves, because of their location in the valley, but observed their approximate location and the nature of the fire. He reported the incident, as required under standard operating procedures. The time was about 1:52 p.m. Within a few minutes, according to the officer, the base dispatched an interpreter to talk with the Lebanese Army, and members of Amal (a rival Shi'ite political movement that also carries out military activities against Israel and the SLA in south Lebanon), who were located across the road, to negotiate with the fighters to cease firing so close to the base. This mission was aborted because the Israeli retaliatory shelling of the area began. The sentry told Human Rights Watch that he recorded an incoming artillery shell from the southeast that appeared to hit at or close to the location from which the mortar had been fired. The shelling continued, he said, starting in the vicinity of the cemetery and then continuing toward the Qana base. "I phoned our boys when the shelling began. I counted thirty-seven rounds before the thirty-seventh hit the camp."¹⁸⁹

Violations of International Humanitarian Law

For Lebanese guerrillas, one of the most relevant rules in the context of their military operations in south Lebanon is the one that requires their forces "to the maximum extent feasible...avoid locating military objectives within or near densely populated areas."¹⁹⁰ This rule clearly encompasses the positioning of mortars and Katyusha rocket launchers within or in close proximity to concentrations of civilians, including displaced civilians sheltered on U.N. bases.

Because they positioned and launched rockets and mortar shells from sites close to the Qana base on April 18, Lebanese guerrilla forces also bear responsibility for the civilian casualties caused by the massive Israeli retaliatory fire. The burden is on the guerrillas to explain the military necessity that required its forces to carry out military operations at these specific locations in such close proximity to a large number of civilians, particularly given their long experience with the predictability of Israeli counterfire in such circumstances. The rules of customary international humanitarian law require all parties to a conflict to take constant care to spare civilians in the conduct of military operations. In the days and hours leading up to the Qana massacre, the guerrillas exhibited a willful disregard for the safety of the civilian population.

Human Rights Watch is also deeply concerned about reports that Lebanese guerrillas on more than one occasion during Operation Grapes of Wrath targeted and injured U.N. peacekeepers who sought the cooperation of guerrillas to relocate military equipment and activities a safer distance from UNIFIL positions. In addition to the case of the Fijian officer described above, UNIFIL also reported that "two Nepalese soldiers were injured by Islamic Resistance elements in response to the Force's attempts to prevent the latter from launching rockets from the vicinity of UNIFIL positions."¹⁹¹ Such actions are unjustifiable and must be condemned.

¹⁸⁹ Human Rights Watch interviews, Qana, Lebanon, May 1996.

¹⁹⁰ Article 58(b) of Protocol I. Article 58(c) also requires that parties to the conflict, to the maximum extent feasible, shall "take other necessary precautions to protect the civilian population, individual civilians and civilian objects under their control against the dangers resulting from military operations."

¹⁹¹ UNIFIL report, para. 22.

Human Rights Watch/Middle East

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