

I. Executive Summary

In this report, Human Rights Watch examines military operations by Israeli and Hezbollah forces in Lebanon during the armed conflict that lasted from July 12 until August 14, 2006. Human Rights Watch issued an earlier report on the conflict, researched and published while the war was ongoing. Because of our concerns about the conduct of that conflict by both sides and the difficulty of doing research in the midst of the fighting, Human Rights Watch conducted substantial additional research in the less difficult post-war environment.

According to this new research, the conflict resulted in at least 1,109 Lebanese deaths, the vast majority of whom were civilians, 4,399 injured, and an estimated 1 million displaced. Hezbollah's indiscriminate rocket attacks on Israel, the subject of a separate Human Rights Watch report, *Civilians under Assault: Hezbollah's Rocket Attacks on Israel during the 2006 War*, resulted in the deaths of 43 Israeli civilians and 12 Israel Defense Forces (IDF) soldiers, as well as the wounding of hundreds of Israeli civilians.

Israeli warplanes launched some 7,000 bomb and missile strikes in Lebanon, which were supplemented by numerous artillery attacks and naval bombardment.¹ Israeli airstrikes destroyed or damaged tens of thousands of homes. In some villages, homes completely destroyed by Israeli forces numbered in the hundreds: 340 homes completely destroyed in Srifa; 215 homes completely destroyed in Siddiquine; 180 homes completely destroyed in Yatar; 160 homes completely destroyed in Zebqine; more than 750 homes completely destroyed in `Aita al-Sha`ab; more than 800 homes completely destroyed in Bint Jbeil; and 140 homes completely destroyed in Taibe. The list throughout southern Lebanon is extensive.

This report seeks to answer three central questions:

- Were the Lebanese who died in Israeli air strikes civilians or combatants?;
- Did Israel abide by international humanitarian law (the laws of war) in its attacks in Lebanon?; and,
- To what extent did Hezbollah's actions contribute to the civilian death toll inside Lebanon?

¹ Israeli authorities have not provided a total figure of their strikes against Lebanon. According to the assessment of UN Mine Action Coordination Centre (UNMACC), Israeli aerial and ground strikes during the first weeks of the war used up to 3,000 bombs, rockets and artillery rounds daily, with the number rising to 6,000 towards the end of the war. See <http://www.maccsl.org/War%202006.htm>.

To answer these three questions, Human Rights Watch investigated over 94 separate incidents of IDF air, artillery, and ground attacks that claimed 510 civilian lives and those of 51 Hezbollah combatants, or almost half of the Lebanese deaths in the conflict.

Our research shows that the primary reason for the high Lebanese civilian death toll was Israel's frequent failure to abide by a fundamental obligation of the laws of war: the duty to distinguish between military targets, which can be legitimately attacked, and civilians, who are not subject to attack. This was compounded by Israel's failure to take adequate safeguards to prevent civilian casualties.

The occurrence of civilian casualties does not necessarily mean that there has been a violation of international humanitarian law, but it is a starting point for investigations. Human Rights Watch's extensive field investigations in Lebanon found that Israel often attacked targets that, under the laws of war, could not be considered military objectives subject to attack. In cases where a legitimate military objective was evident, our investigations frequently found that the civilian loss incurred may have been excessive compared to the anticipated military gain from the attack. In critical respects, Israel conducted the war with reckless indifference to the fate of Lebanese civilians and violated the laws of war.

Israeli officials contend that the reason for the high fatality rate was not indiscriminate targeting by Israeli forces, but the Hezbollah military's allegedly routine practice of hiding among civilians and using them as "shields" in the fighting. If Israeli attacks on Hezbollah forces also killed civilians and destroyed civilian homes, Israeli officials have argued, the blame lies with Hezbollah. The evidence Human Rights Watch uncovered in its on-the-ground investigations refutes this argument.

Hezbollah at times violated the laws of war in its deployment of forces in Lebanon. It also frequently violated the laws of war in its rocket attacks on Israel, which is the subject of a separate Human Rights Watch report, *Civilians under Assault*. On some occasions, our research shows, Hezbollah fired rockets from within populated areas, allowed its combatants to mix with the Lebanese civilian population, or stored weapons in populated civilian areas in ways that violated international humanitarian law. Such violations, however, were not widespread: we found strong evidence that Hezbollah stored most of its rockets in bunkers and weapon storage facilities located in uninhabited fields and valleys, that in the vast majority of cases Hezbollah fighters left populated civilian areas as soon as the fighting started, and that Hezbollah fired the vast majority of its rockets from pre-prepared positions outside villages. On the question of whether Hezbollah intentionally used civilians as "shields"—that is, whether Hezbollah forces not only endangered civilians in violation of the duty to take all feasible precautions to spare civilians the hazards of armed conflict but also

deliberately deployed among civilians with the aim of protecting themselves from attack—a serious laws of war violation, we found a handful of instances but nothing to suggest a widespread practice.

For the reasons set forth below, Human Rights Watch’s assessment of Hezbollah’s practices does not support the Israeli contention that Hezbollah violations were the principal cause of Lebanese civilian casualties. Responsibility for the high civilian death toll of the war in Lebanon lies squarely with Israeli policies and targeting decisions in the conduct of its military operations.

Israeli Policies Contributing to the Civilian Death Toll

In the vast majority of cases documented in this report, Israeli air strikes hit near or on civilian objects, killing numerous civilians in their homes or vehicles. While there were instances in which civilian deaths were “collateral damage” from legitimate attacks on military targets, during the vast majority of the deadly air strikes we investigated, we found no evidence of Hezbollah military presence, weaponry or any other military objective that would have justified the strike. Human Rights Watch visits to the graveyards in the villages found that the victims of these strikes were buried as civilians, and not honored as “fighters” or “martyrs” by Hezbollah or other militant groups, despite the pride that Hezbollah takes in these labels. Women and children account for a large majority of the victims of Israeli air strikes that we documented. Out of the 499 Lebanese civilian casualties of whom Human Rights Watch was able to confirm the age and gender, 302 were women or children.

This repeated failure to distinguish between civilians and combatants cannot be explained as mere mismanagement of the war or a collection of mistakes. Our case studies show that Israeli policy was primarily responsible for this deadly failure. **Israel assumed that all Lebanese civilians had observed its warnings to evacuate villages south of the Litani River, and thus that anyone who remained was a combatant. Reflecting that assumption, it labeled any visible person, or movement of persons or vehicles south of the Litani River or in the Beka` Valley as a Hezbollah military operation which could be targeted. Similarly, it carried out widespread bombardment of southern Lebanon, including the massive use of cluster munitions prior to the expected ceasefire, in a manner that did not discriminate between military objectives and civilians.**

During the war, Israel repeatedly sent warnings to the population in southern Lebanon to evacuate the area south of the Litani River. It issued such warnings by Arabic-language flyers dropped from airplanes, Arabic radio messages broadcast into southern Lebanon, recorded voice messages sent to some Lebanese cellphones, and loudspeakers along the Israel-

Lebanese border. Following the release of the messages, many Israeli officials made statements (see below) suggesting that everyone who remained behind was linked to Hezbollah, and therefore a legitimate target of attack. In subsequent days and weeks, Israel intensified its bombardment of southern Lebanon, hitting thousands of homes in the south.

It is questionable whether Israeli officials really believed the assumption that there were no Lebanese civilians left in southern Lebanon, or simply announced this to defend their actions. Certainly, there is evidence to suggest that Israeli officials knew that their assumption was erroneous. At the time of the Israeli attacks in southern Lebanon, stories about Lebanese civilians dying in Israeli strikes or trapped in southern Lebanon filled the Israeli and international media. In addition, foreign embassies were in regular contact with Israeli diplomats to request assistance with the evacuation of their nationals caught in the fighting in the south. And in some instances, Israel seemed to know exactly how many people remained in a village. For instance, on July 24, Dan Halutz, the IDF chief of staff, estimated that 500 residents remained in Bint Jbeil despite IDF warnings to leave.²

In addition, Israel must have known from its past conflicts in southern Lebanon that a civilian population is rarely willing or able to leave its homes according to timetables laid down by a belligerent military force.³ Reporting 10 years ago on fighting between Hezbollah and Israel during July 1993, Human Rights Watch found that it was “reasonably foreseeable that a segment of the population might not flee, and it was entirely foreseeable that in particular the old and indigent would not be able to evacuate their homes, especially considering the brevity of time between the first warnings and the beginning of the shelling.”⁴ As in 1993, many elderly and indigent people were among the casualties in the 2006 war. Israel should have known that significant numbers of civilians would remain in their villages throughout the war. At the very least, Israeli forces had a duty to check the areas they were targeting, especially after it became clear that civilians were dying in very high numbers.

Even if those who remained did so out of support for Hezbollah—a claim that Human Rights Watch’s research disproves, as most who remained behind stayed because they were too old, poor, or sickly to leave—Israel would not have been justified in attacking them. The political leanings of the civilian population in a given area or village is irrelevant as far as their civilian

² Hanan Greenberg, “Halutz: In the next speech Nasrallah will consider his words very well”, (חלוץ: בנאום הבא נסראללה יחשוב טוב על מילותיו), *Ynet News*, July 24, 2006, <http://www.ynet.co.il/articles/0,7340,L-3280528,00.html> (accessed November 6, 2006).

³ See Human Rights Watch, *Civilian Pawns: Law of War Violations and the Use of Weapons on the Israel-Lebanon Border* (New York: Human Rights Watch, 1996); Human Rights Watch, *Operation Grapes of Wrath: the Civilian Victims* (New York: Human Rights Watch: 1997).

⁴ See Human Rights Watch, *Civilian Pawns: Law of War Violations and the Use of Weapons on the Israel-Lebanon Border* (New York: Human Rights Watch, 1996), p. 92.

status is concerned. To the extent that civilians do not directly participate in hostilities, that is, are not committing acts that by their nature or purpose are likely to contribute to harming the personnel and equipment of the enemy, they continue to benefit from the protection afforded by their civilian status under international humanitarian law. Thus attacks directed against civilians who support Hezbollah only politically are just as unlawful as other direct attacks against civilians.

Individuals who commit serious violations of the laws of war with criminal intent are responsible for war crimes. A criminal investigation of such attacks would need to determine if those responsible attacked areas where civilians remained knowingly or recklessly. That is, a commander who knew that the assumption that all the civilians had left an area was not true but still targeted that area indiscriminately would be criminally responsible for ordering an unlawful attack.

Throughout the conflict, Israeli warplanes targeted civilian vehicles on roads and homes, apparently assuming them to be Hezbollah military movements. Among the deadly attacks on civilians trying to flee the conflict are the killing of 23 civilians, including 14 children and seven women, fleeing from Marwahin on July 15; the killing of six and wounding of eight civilians fleeing from `Aitaroun on July 19; the killing of three and wounding of 14 civilians fleeing from al-Tiri on July 23; the killing of 2 and wounding of four civilians fleeing from Mansouri on July 23; the wounding of nine civilians fleeing from Mansouri on July 23; the wounding of six ambulance drivers and three passengers in Qana on July 23; the killing of one civilian on a motorcycle on his way to buy food and medicines on July 24; the killing of seven civilians fleeing from Marja`youn on August 11; and the killing of seven and wounding of six civilians in the Beka` Valley on August 14. In all these cases, there is no evidence of a Hezbollah military presence that would justify the attacks.

A simple movement of persons or vehicles was often enough to cause a deadly air strike. On July 19, Israeli air strikes killed four members of the Darwish family in `Ainata, almost immediately after the civilians returned in a taxi to their homes after buying and distributing bread in the village. On August 4, an Israeli strike on a remote fruit farm in al-Qa` in the northern Beka` Valley resulted in the deaths of 25 Syrian Kurdish farm workers. Apparently, the IDF spotted a refrigerated truck leaving the farm shortly before the attack and fired at the farm buildings before confirming whether or not they were a legitimate military target. On August 7, an Israeli air strike killed five civilians in Insar, after relatives and neighbors had gathered in the home to socialize and then left the home at the end of the evening. On July 25, an Israeli drone fired a missile at Sa`da Nur al-Din in al-Ghassaniyeh, after she had gone to her home to collect food supplies and was driving back to the village shelter where she had been living with some 40 other civilians. On August 10, Israeli warplanes struck a home in

Rabb al-Talatine, killing four women, soon after the women had moved a wounded relative (one of the four women killed in the attack) from one home to another.

The nature of Israel's bombing campaign in southern Lebanon belies Israel's argument that it had direct evidence linking particular targets to Hezbollah forces before striking them. Human Rights Watch's field investigations found that in many instances there was no apparent military objective in villages hit by Israeli attacks. But even where valid military targets existed somewhere in the vicinity, the humanitarian law prohibition against indiscriminate attacks prohibits a warring party from treating a town or village as a single military objective subject to general bombardment. That is, the mere presence of Hezbollah forces somewhere in a village or town would not justify the wholesale destruction of villages and towns meted out by the IDF. Nor may attacks be carried out that would be expected to cause disproportionate harm to the civilian population.

Compounding the problem, **Israel targeted people or structures associated in any way with Hezbollah's military, political, or social structures—regardless of whether they constituted valid military objectives in accordance with international humanitarian law—and failed to take all necessary precautions to avoid civilian casualties when attacking suspected Hezbollah targets.**

During the war, Israeli officials repeatedly stated that they considered all parts of Hezbollah—its military wing as well as its extensive political, social, and welfare branches—to be part of an integrated terror organization, and designated any person or office associated with Hezbollah to be legitimate military targets. Israel's UN ambassador, Dan Gillerman, told the UN Security Council on July 21 that Hezbollah was a “cancer” that “must be removed without a trace,” and rejected any distinction between Hezbollah's military and political structures, stating that “[t]he [Hezbollah] member of parliament and the terrorist in the hills launching rockets at Israeli civilians both have the same strategy and goal. These labels cannot be allowed to give legitimacy to a gang of thugs⁵.”

The apparent decision to target virtually all aspects of Hezbollah's membership and infrastructure led to the deaths of some civilians who were unconnected to Hezbollah, as well as Hezbollah members who were not engaged in military operations. An attack that knowingly and deliberately targeted people who were neither combatants nor civilians directly participating in the hostilities would be a serious violation of the laws of war. Insofar as the

⁵ Statement by Ambassador Dan Gillerman, Israel's Permanent Representative to the UN, during the open debate on “The Situation in the Middle East including the Palestinian Question,” UN Security Council, New York, July 21, 2006, U.N. doc. S/PV.5493.

attack is launched knowing that the target should be treated as a civilian under international humanitarian law, those responsible would have committed a war crime.

Human Rights Watch research indicates that a large number of private homes of civilian Hezbollah members were targeted during the war, as well as a variety of civilian Hezbollah institutions such as schools, welfare agencies, banks, shops, and political offices, in addition to Hezbollah military infrastructure and the homes of Hezbollah combatants. The civilian death toll from such strikes is low, because almost all Hezbollah officials and members, and often even their neighbors, evacuated their homes in anticipation of Israeli air strikes. However, Human Rights Watch did document a number of cases in which civilians were killed during air strikes on civilian Hezbollah-affiliated targets during the war. For example, on July 13, the first day of massive air strikes, Israeli warplanes destroyed the home of Shaikh `Adil Muhammad Akash, an Iranian-educated Shi`a cleric believed to have a religious affiliation with Hezbollah, killing him, his wife, and his 10 children aged between two months and 18 years, and their Sri Lankan maid. There is no evidence (and the IDF has not publicly alleged) that Shaikh Akash was involved in Hezbollah military activities, and according to villagers he was only a religious leader in Dweir village. On July 23, an Israeli warplane fired at the Nabi Sheet home of Dr. Fayez Shukr, a leading member of the Lebanese Ba`ath Party and a political ally of Hezbollah, killing his 71-year-old father.

Israel's broad definition of legitimate Hezbollah targets is particularly evident in the pattern of attacks on the densely populated southern suburbs of Beirut, the neighborhood of Dahieh. In their attacks on this largely Shi`a district of high-rise apartment buildings, Israeli forces attacked not only Hezbollah military targets but also the offices of Hezbollah's charitable organizations, the offices of its parliamentarians, its research center, and multi-story residential apartment buildings in areas considered supportive of Hezbollah. Statements by Israeli officials strongly suggest that the massive IDF attacks in southern Beirut were carried out not against Hezbollah military targets, as required by the laws of war, but rather against entire neighborhoods because they were seen as pro-Hezbollah. Some statements by Israeli officials, including Israel's Defense Minister Amir Peretz and the IDF chief of staff Dan Halutz, suggest that some of the attacks on southern Beirut may have been unlawful retaliation for Hezbollah attacks against Israel.

In many cases in which civilian deaths did occur as Israel attempted to target civilian (or even military) Hezbollah officials, the main reason for the deaths was Israel's use of unreliable or dated intelligence that led to the misidentification of a particular building as Hezbollah-related, or Israel's failure to take adequate precautions to limit civilian casualties during strikes on presumed Hezbollah targets, particularly the homes of suspected Hezbollah militants.

On July 13, several Israeli missiles struck the home of 43-year-old Mustafa Khashab, killing him, his wife, his father, his sister, and two children aged 14 and 16. Mustafa had no links to Hezbollah and had permanently settled in Germany; it is possible that the strike attempted to target his brother, Safi Khashab, a high-ranking Hezbollah official, who had left the village the evening prior to the strike and did not live in the targeted home. A similar example of failed targeting of Hezbollah's members that led to civilian deaths is the Israeli attack on the town of al-Ghaziyeh on August 7 and 8, resulting in the deaths of 26 civilians. The apparent target of the al-Ghaziyeh attacks was a Hezbollah leader from the town, Amin Khalifa, as Israeli bombs struck his neighbor's home and the shops and homes of his brothers. By all indications, Amin Khalifa was not in al-Ghaziyeh during the war, including on the days the attacks took place.

Flawed intelligence and communication breakdowns contributed to many other cases of mistaken targeting by the IDF that resulted in civilian casualties. On July 16, an Israeli air strike on a multistory apartment building in Tyre killed 14 civilians, but the building was not the "Tyre Hezbollah headquarters" claimed by Israeli intelligence; it was the headquarters of Lebanon's Civil Defense offices in Tyre, an institution protected under humanitarian law. On July 25, an Israeli precision guided missile demolished an observer post of the UN's Observer Group Lebanon (OGL) outside Khiam, killing four UN observers, after UN officials had repeatedly been in contact with the IDF to warn them that they were firing close to a UN position. Although this report documents many cases in which Hezbollah fighters wrongfully fired from nearby UN positions, Hezbollah was not present near the Khiam UN position when an Israeli missile struck it. On the last day of the war, August 13, Israeli warplanes mounted one of the largest strikes of the war on the Imam Hassan Building Complex in the Rweiss neighborhood of southern Beirut, destroying eight ten-story buildings and killing at least 36 civilians and four low-ranking Hezbollah members, apparently acting on an inaccurate tip (see below) that a high-ranking Hezbollah official was staying at the complex.

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Israel made extensive use of cluster munitions during the armed conflict in Lebanon.⁶ As documented in a forthcoming Human Rights Watch report on Israel's use of cluster munitions in Lebanon, IDF cluster munitions struck wide swathes of southern Lebanon, particularly during the last three days of the conflict when both sides knew a settlement was imminent.

⁶ The UN Mine Action Coordination Centre South Lebanon (MACC SL) has estimated that Israel fired cluster munitions containing as many as 4 million submunitions into 36.6 square kilometers of Lebanon, including 4.3 square kilometers of urban areas and 4.7 square kilometers of olive groves, hitting 916 separate strike sites. MACC SL, May 2007 Report of the Mine Action Coordination Center South Lebanon, June 5, 2007, p. 1, <http://www.maccsl.org/reports/Monthly%20Reports/Monthly%202007/Monthly%20Report%20May%2007.pdf> (accessed July 17, 2007); United Nations Development Programme, CBU Contamination by Land Use, current as of November 29, 2006. MACC SL, "War 2006: 916 Cluster Bombs Strikes Map as at June 20, 2007," <http://www.maccsl.org/War%202006.htm> (accessed July 17, 2007).

The IDF has stated that it mostly fired cluster munitions at military objectives in open areas, and only fired near built-up areas “toward particular locations from which [Hezbollah] missiles were being launched against Israel, and after significant measures were taken to warn civilians to leave the area.”⁷ Human Rights Watch’s field research in Lebanon showed that the Israeli military launched many of its cluster munition attacks at or near towns and villages, in some cases against Hezbollah forces, but in many other cases with no evident military objective.

The manner in which the IDF used cluster munitions and its reliance on antiquated munitions (many from the Vietnam war era) resulted in estimated failure rates of between 30 and 40 percent for many submunitions. This left as many as one million hazardous unexploded submunitions that littered fields and orchards and dozens of towns and villages in south Lebanon, threatening the returning civilian population.⁸ As of June 20, 2007, the explosion of cluster munition duds since the ceasefire had killed 24 civilians and injured 183.⁹ They have severely damaged the region’s economy by turning agricultural land into minefields and interfering with the harvesting of tobacco, citrus, banana, and olive crops.

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This report deals mostly with investigations of civilian deaths caused by aerial bombardment. However, in the course of our investigations we also documented two troubling cases in which Israeli ground troops killed unarmed Lebanese civilians who the soldiers should have seen posed no threat. On August 6, Israeli ground troops shot dead an elderly couple from the Nasrallah family (unrelated to the leader of Hezbollah, Hassan Nasrallah), aged 81 and 83, and their son and daughter, aged 54 and 58, as they came to check on their home in Taibe, which, unbeknownst to them, Israeli soldiers had occupied. On July 27, Israeli soldiers shot dead 36-year-old Maryam Khanafer as she was walking away from her home, which Israeli soldiers had occupied, holding her daughter’s portable toilet. While these two cases of killings do not appear to be the result of any policy decision by Israeli officials, the circumstances of these killings merit investigation and, if appropriate, prosecution.

⁷ “Israel’s Response to Accusations of Targeting Civilian Sights [sic] in Lebanon During the ‘Second Lebanon War,’” document contained in e-mail communication from Gil Haskel, Israeli Ministry of Foreign Affairs, to Human Rights Watch, May 8, 2007 in response to a Human Rights Watch letter to Defense Minister Amir Peretz sent January 8, 2007.

⁸ MACC SL, South Lebanon Cluster Bomb Info Sheet as at November 4, 2006, <http://www.maccsl.org/reports/Leb%20UXO%20Fact%20Sheet%204%20November,%202006.pdf> (accessed March 18, 2007). As of June 5, 2007, MACC SL’s contractors, United Nations Interim Force in Lebanon (UNIFIL) engineers, and the Lebanese Armed Forces had cleared and destroyed more than 118,700 dud submunitions. MACC SL, May 2007 Report of the Mine Action Coordination Center South Lebanon.

⁹ UN Mine Action Coordination Centre South Lebanon, Casualties (Civilian and Demining) in South Lebanon from 14 Aug 06 - 20 June 07, <http://www.maccsl.org/reports/Victims/Casualties%20Tables.pdf> (accessed July 16, 2007).

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The Israeli policies summarized above guided IDF military operations in Lebanon during the conflict. That they reflect Israeli policy and not just the behavior of individual IDF members is evident from statements by Israeli government officials and military leaders that Israeli forces intentionally blurred the distinction between civilian and combatant. In one such statement issued on July 27, 2006, Israeli Justice Minister Haim Ramon said that “all those now in south Lebanon are terrorists who are related in some way to Hezbollah.”¹⁰ IDF spokesperson Jacob Dallal told the *Associated Press*:

[Hezbollah] is a terrorist institution, a terrorist organization that has to be debilitated and crippled as much as possible and that means [destroying] its infrastructure, that means its television, its institutions In the war on terror in general, it's not just about hitting an army base, which they don't have, or a bunker. It is also about undermining their ability to operate That ranges from incitement on television and radio, financial institutions and, of course, other grass-roots institutions that breed more followers, more terrorists, training bases, obviously, schools.¹¹

In this context, Israel's claim that it only attacked military targets rings hollow.

The policies on the conduct of the war had a common element in that Israel sought to define a broad swath of civilians and civilian objects as military objectives. Israeli officials and commanders ostensibly recognized the humanitarian law requirement that they could target only military objectives but then unlawfully widened the scope of what they considered a legitimate military target. In doing so they conducted numerous attacks that were indiscriminate, disproportionate, and otherwise unjustified. Such attacks are serious violations of international humanitarian law. To the extent such attacks were conducted with knowledge or reckless indifference to the civilian nature of those being attacked, then those who ordered these attacks would have the criminal intent needed for the commission of war crimes as defined by international humanitarian law. And to the extent that senior commanders or officials knew or should have known that war crimes were being committed, and were in a position of authority to stop the attacks or punish those responsible and did not

¹⁰ “Israel says world backs offensive,” *BBC News Online*, July 27, 2006.

¹¹ Hamza Hendawi, “Israel Targeting Hezbollah Infrastructure,” *Associated Press*, July 26, 2006.

do so, they would be responsible for war crimes as a matter of command responsibility under international humanitarian law.¹²

Hezbollah Conduct During the War

Our research in Lebanon documented a number of cases in which Hezbollah fighters placed weapons or ammunition inside civilian homes or villages, as well as some cases in which Hezbollah fighters fired rockets from densely populated areas.¹³ (Illustrative examples are detailed below.) Such conduct violates at minimum the legal duty to take all feasible precautions to avoid civilian casualties. Where Hezbollah combatants intended to use civilians to shield military assets from attack, the requisite criminal intent would be present for the war crime of shielding. However, as already noted, such practices were not nearly as widespread as official Israeli government accounts and some independent press accounts have suggested, and our research found that in all but a few of the cases of civilian deaths we investigated, Hezbollah fighters had not mixed with the civilian population or taken other actions to contribute to the targeting of a particular home or vehicle by Israeli forces.

In a few cases, Hezbollah's illegal conduct led to civilian deaths. For example, on July 13, an Israeli air strike destroyed two homes in Bar`achit, killing Najib Hussain Farhat, 54, and his 16-year-old daughter Zainab. Unbeknownst to the family, Hezbollah had built a large weapon storage facility located in the unoccupied home next door, which was also destroyed in the strike.

Similarly, on a number of occasions during the war, Hezbollah forces fired rockets from populated civilian areas, triggering deadly Israeli counterstrikes. On July 18, an Israeli air strike hit two civilian homes in `Aitaroun, killing nine members of the `Awada family, approximately two hours after villagers saw Hezbollah fighters firing rockets some 150 meters from the home. A local villager in Yaroun, a mixed Christian-Sh`ia border village, showed Human Rights Watch several places inside the village from where Hezbollah had fired rockets, leading to massively destructive Israeli counterstrikes.

In a case of Hezbollah's illegal conduct that led to the death of only combatants, on July 16, an air strike on a home in Yatar killed three Hezbollah fighters. The fighters had stored a recently

¹² While the term "war crime" is colloquially used to mean any particularly heinous laws of war violation by a person or warring party, Human Rights Watch uses the term in its technical legal sense. A war crime is a serious violation of certain rules of international humanitarian law committed with criminal intent (that is, intentionally or recklessly) by an individual. War crimes are enshrined in applicable treaties, such as the grave breaches provisions of the 1949 Geneva Conventions and 1977 Additional Protocols and the Rome Statute of the International Criminal Court, and in customary international humanitarian law.

¹³ Human Rights Watch has published a separate report on Hezbollah rocket attacks on Israel in violation of the humanitarian law prohibitions against deliberate and indiscriminate attacks against civilians and civilian objects, titled *Civilians under Assault: Hezbollah's Rocket Attacks on Israel during the 2006 War*.

fired rocket launcher in the home. In like fashion, on July 13 in Marwahin, a mostly Sunni village on the Lebanese-Israeli border, Hezbollah fighters drove a white van packed with weapons into the village, parked it next to a mosque, and then stored weapons and rockets in the home of a local civilian. Two days later, witnesses spotted Hezbollah fighters in the village moving weapons hidden under blankets.

Human Rights Watch also obtained credible evidence that Hezbollah maintained weapons storage facilities in apartment buildings in southern Beirut and used civilians to move some of those weapons to different locations, including at least one civilian shelter in an apartment building.

Hezbollah also fired from the vicinity of United Nations outposts on an almost daily basis. This often led to Israeli counterstrikes that resulted in death and injury to UN personnel. For observation purposes, the UN outposts tended to be located on the top of hills, which also happen to be good positions from Hezbollah's military perspective to fire at Israel. However, insofar as Hezbollah commanders or fighters chose those locations to launch attacks because the proximity of UN personnel would make counterattack difficult, which would constitute the war crime of shielding. That the motives of Hezbollah combatants may have been mixed does not preclude criminality. Further investigations are needed, including by the UN, to determine whether Hezbollah forces acted unlawfully by purposefully using UN personnel as "human shields" or by placing UN personnel at unnecessary risk by deploying in the vicinity.

Commentators have cited the firing from near populated areas to support allegations that Hezbollah routinely used civilians as "human shields." International humanitarian law does not prohibit fighting in areas where civilians are present or prohibit the presence of forces in such areas. Armies have never been obliged to fight exposed out in the open. However, international humanitarian law does require all parties to a conflict to take all feasible precautions to protect civilians from the effects of combat. According to the International Committee of the Red Cross' (ICRC) authoritative *Commentary on the Additional Protocols*, several state delegations to the diplomatic conference drafting the 1977 protocols to the Geneva Conventions sought to define "everything feasible" as including "all circumstances relevant to the success of military operations." But the ICRC considered such a criterion to be "too broad":

There might be reason to fear that by invoking the success of military operations in general, one might end up by neglecting the humanitarian

obligations prescribed here. Once again the interpretation will be a matter of common sense and good faith.¹⁴

Parties to a conflict must avoid, to the extent feasible, placing military objectives—personnel, equipment and weaponry—in densely populated areas. As the ICRC *Commentary* notes, “For example, a barracks or a store of military equipment or ammunition should not be built in the middle of a town.”¹⁵ Thus while using ammunition in a village during a firefight would be lawful under humanitarian law (though the presence of ammunition would render a location a legitimate target), the storage of ammunition inside a village would not.

Parties must also, to the extent feasible, remove civilians under their control from the vicinity of military objectives.¹⁶ The ICRC *Customary International Humanitarian Law* states that this obligation “is particularly relevant where military objectives can not feasibly be separated from densely populated areas.”¹⁷ Thus parties to a conflict seeking to deploy in populated areas should take measures to ensure that civilians move to safer areas.

While failing to take precautions to protect civilians violates humanitarian law, intentionally making use of civilians to render military forces or a place immune from attack is considered to be the more serious violation of “shielding.” Because the definition of shielding incorporates the concept of intent, any individual ordering shielding would almost invariably be committing a war crime.

While we documented cases where Hezbollah stored weapons inside civilian homes or fired rockets from inside populated areas, our investigations to date suggest relatively few cases where Hezbollah might have specifically intended to use the presence of civilians to shield itself from counterattack—certainly not enough to constitute a widespread or systematic pattern. One significant exception is Hezbollah’s frequent firing of rockets from the vicinity of UN outposts, where the evidence strongly suggests that one of the two likely motives for doing so was to use the UN noncombatants to shield Hezbollah from counterattack.

Even where Hezbollah endangered civilians by unlawfully carrying out military operations in proximity to densely populated areas, Israel was not justified under the laws of war in

¹⁴ International Committee of the Red Cross (ICRC), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Geneva: Martinus Nijhoff Publishers, 1987) pp. 681-82.

¹⁵ ICRC, *Commentary on the Additional Protocols*, pp. 694.

¹⁶ See Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977, 1125 U.N.T.S. 3, entered into force December 7, 1978, article 58(a).

¹⁷ International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law* (Cambridge: Cambridge University Press, 2005) p. 76.

responding with disproportionate attacks. International humanitarian law prohibits warring parties from conducting attacks in which the expected civilian loss is disproportionate to the anticipated military gain, even if the other party is committing violations of the laws of war.

While the humanitarian law applicable during the Israeli conflict with Hezbollah placed no obligation on those participating in the hostilities to wear uniforms,¹⁸ the routine appearance of Hezbollah fighters in civilian clothes and their failure to carry their weapons openly put the civilian population of Lebanon at risk. Since Hezbollah fighters regularly appeared in civilian clothes, Israeli forces would have had difficulty distinguishing between fighters and other male, fighting-age civilians, and such difficulty increased the dangers of IDF operations to the civilian population of Lebanon. However, the failure of Hezbollah fighters to consistently distinguish themselves as combatants does not relieve Israeli forces of their obligation to distinguish at all times between combatants and civilians and to target only combatants.¹⁹ That this task may have been difficult at times does not negate the obligation. In cases of doubt, a person must be considered a civilian and not a legitimate military target.²⁰

Summary of Methodology and Errors Corrected

This report builds on Human Rights Watch's August 2006 report, *Fatal Strikes: Israel's Indiscriminate Attacks Against Civilians in Lebanon*. It represents the most comprehensive study of civilian deaths in Lebanon to date, based on extensive on-the-ground research. During the course of five months of continuous research in Lebanon and Israel, Human Rights Watch investigated the deaths of more than 561 persons during Israeli air and groundstrikes and collected additional summary information about an additional 548 deaths, thus accounting for a total number of 1,109 deaths (civilians and combatants) from the 34-day conflict. Human Rights Watch interviewed more than 355 victims and witnesses of attacks in one-on-one settings and collected information from hospitals, humanitarian groups, journalists, military experts, and government agencies. We visited more than fifty villages and conducted on-site inspections. Human Rights Watch also conducted research in Israel, inspecting the IDF's use of weapons and discussing the conduct of forces with IDF officials.

Human Rights Watch approached Israeli officials for information on a number of occasions. Our researchers held several meetings with officials in the Israeli Ministry of Foreign Affairs,

¹⁸ Article 44 of Protocol I provides that "to promote the protection of the civilian population from the effects of hostilities, combatants are obliged to distinguish themselves from the civilian population while they are engaged in an attack or in a military operation preparatory to an attack." However, Israel is not a party to Protocol I and article 44 is not considered reflective of customary international law.

¹⁹ Protocol I, article 48.

²⁰ Protocol I, article 50(1).

the IDF, and the Ministry of Justice. We also sent a letter on January 8, 2007 to then-Defense Minister Amir Peretz requesting detailed information about the cases described in this report, which is attached as an appendix to this report. Human Rights Watch also talked to Israeli soldiers and officers to learn more about the instructions the IDF gave to its soldiers and the precautions it took to avoid civilian casualties.

This report does not address Israeli attacks on Lebanon's infrastructure, which have been reported on elsewhere,²¹ or Israel's use of cluster munitions, which we will release a separate report on shortly. It also does not address Hezbollah's rocket attacks on Israel, which we also have reported on separately, in *Civilians under Assault: Hezbollah's Rocket Attacks on Israel during the 2006 War*.

This report corrects two major and several minor inaccuracies from Human Rights Watch's earlier report issued during the 2006 war (*Fatal Strikes*):

- Further Human Rights Watch investigations into a deadly strike at Srifa established that an Israeli attack there killed 17 combatants and five civilians on July 19, not the 26 civilians claimed in *Fatal Strikes*.
- In a second case, involving an Israeli air strike on the village of `Aitaroun that killed nine members of the `Awada family, further Human Rights Watch research established that Hezbollah had fired rockets from near the home a few hours before the deadly air strike, although there is no doubt that all of those killed in the air strike were civilians unconnected to Hezbollah.

Human Rights Watch regrets these two major inaccuracies in its *Fatal Strikes* report. We have corrected several smaller errors relating to dates of strikes, ages and names of victims, and the previously unreported presence of an empty Hezbollah civilian office in a building targeted by an Israeli air strike in Bint Jbeil that killed two civilians. Wherever we have corrected errors from previous reports, the text or footnotes of this report clearly identify the information corrected.

To avoid any such mistakes in this report, we reexamined all of the cases included in *Fatal Strikes* and conducted additional interviews, site inspections, and visits to graveyards to establish whether victims were civilians or combatants. In addition, we investigated a further

²¹ See Amnesty International, *Deliberate Destruction or "Collateral Damage"?: Israeli Attacks on Civilian Infrastructure* (London: Amnesty International, August 2006); InfoPro Center for Economic Information, *Economic Impact of the July 06 War and Steps Towards Recovery* (Beirut: InfoPro, 2006); American-Arab Anti-Discrimination Committee Research Institute, *Eyewitness Lebanon July-August 2006: An International Law Inquiry* (Washington, DC: ADC-RI, June 2007).

71 cases in similar detail. Thus, our findings do not rely on any one piece of evidence or witness testimony, but rather on multiple pieces of evidence that together provide the information needed to verify the circumstances and victims of each attack. Our findings in this report reconfirm the central conclusion of *Fatal Strikes*: the primary victims of Israel's bombardment of Lebanon were Lebanese civilians, and they died primarily because of the indiscriminate nature of Israeli attacks, not because of Hezbollah's practices.

II. Recommendations

To the Government of Israel

- Amend and revise wartime policies and military strategies that treat all persons remaining in an area following warnings to evacuate as combatants or civilians subject to attack, and instead ensure full compliance with international legal obligations prohibiting indiscriminate and disproportionate attacks, and that require all feasible precautions be taken to avoid civilian casualties;
- Amend and revise policies and military strategies that authorize the IDF to target people or structures associated with Hezbollah institutions, regardless as to whether they constitute valid military objectives under international humanitarian law, and to ensure that all necessary precautions are taken to avoid civilian casualties;
- Order the Israeli military to conduct a review of its operational guidelines. This review should focus in particular on the process of selecting targets and the types of weapons used. The review should be public and conducted by a special commission including members of the military, the Knesset, and independent legal experts.
- Institute procedures within the Israeli military to ensure that it conducts all military operations in full accordance with international humanitarian law treaties and customary law.
- Special operational attention should be given in the Israeli military to prohibit and prevent attacks that do not distinguish between military objectives and civilians, unlawfully target civilians who are not legitimate military objectives, or cause harm to civilians that is disproportionate to the expected military gain.
- Ratify the First and Second Protocols Additional to the Geneva Conventions of 1949, or at least publicly affirm the provisions that bind Israel as a matter of customary international law.
- Investigate Israeli government officials, IDF officers, and soldiers who ordered or directly committed serious violations of the laws of war and impose disciplinary measures or criminally prosecute as appropriate.
- Expand the mandate of the Winograd Commission to investigate laws of war violations by the IDF during the armed conflict, and the responsibility of IDF commanders for such violations.

To Hezbollah

- Adopt operational measures to ensure the compliance of Hezbollah forces with the requirements of international humanitarian law.

- Take all feasible measures to ensure that Hezbollah forces do not place civilians at unnecessary risk because of their deployments or the placement of weapons and ammunition in populated areas.
- Reaffirm to all military forces the absolute duty never to use civilians or other noncombatants to shield military forces and materiel from attack.
- Investigate in particular the incidents of fire from nearby UN positions to determine whether fighters intentionally used the presence of the UN to shield themselves from attack.
- Adopt recommendations set out in *Civilians under Assault* with respect to rocket attacks on Israel in violation of the laws of war.
- Ensure that individual members of Hezbollah are trained in the laws of war and abide by them. Take appropriate disciplinary measures against members who act in violation of the law.

To the Government of Lebanon

While recognizing the political difficulties presently faced by the government of Lebanon, we urge it to take the following measures at the earliest time feasible, consistent with its state responsibilities and obligations:

- Take appropriate steps to ensure that Hezbollah implements the recommendations listed above.
- Interdict the delivery of rockets to Hezbollah so long as it continues to use rockets in violation of international humanitarian law, by firing at civilians or firing indiscriminately into civilian areas.
- Investigate alleged violations of international humanitarian law by Hezbollah forces. We believe the credibility of the investigation would be heightened were it to be conducted by an independent and credible committee of respected national experts in international humanitarian law.
- Investigate and prosecute members of Hezbollah who have individual or command responsibility for the alleged commission of war crimes.
- Cooperate with international investigations into violations of international humanitarian law.

To the Secretary General of the United Nations

- Use your influence with Israel and Hezbollah to urge them to adopt measures to better comply with international humanitarian law.
- Establish an International Commission of Inquiry to investigate reports of violations of international humanitarian law, including possible war crimes, in Lebanon and Israel and to formulate recommendations with a view to holding accountable those on both sides of the conflict who violated the law.

To the Government of the United States

- Conduct a full investigation into Israel's use of US-supplied arms, ammunition, and other materiel in violation of international humanitarian law.
- Suspend transfers to Israel of arms, ammunition, and other materiel that have been documented or credibly alleged to have been used in violation of international humanitarian law in Lebanon, as well as funding or support for such materiel, pending certification by the US State Department that Israel has stopped using, and has made clear commitments not to use in the future, such arms, ammunition, and other material in violation of international humanitarian law.

To the Governments of Syria and Iran

- Do not permit transfers to Hezbollah of arms, ammunition, and other materiel that have been documented or credibly alleged to have been used in violation of international humanitarian law in Lebanon, as well as funding or support for such materiel, pending a commitment by Hezbollah that it will not use such arms or material in violation of international humanitarian law.