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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251 OF
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Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt; the Representative of the Secretary-General on human rights of internally displaced persons, Walter Kälin; and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari

MISSION TO LEBANON AND ISRAEL*

(7-14 September 2006)

* Owing to the length of the document, the endnotes and the annex are being circulated in the original language only.

Summary

The Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Representative of the Secretary-General on human rights of internally displaced persons, and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, visited Lebanon and Israel less than a month after the end of the armed conflict that took place from 12 July to 14 August 2006.

The present report contains the findings of the four special procedures mandate holders concerning how the conduct of the hostilities by Israel and Hezbollah affected the rights to life, health and housing of the civilian population in Lebanon and Israel, as well as the rights of persons internally displaced by the armed conflict. The report also examines the major challenges to the enjoyment of these rights in the aftermath of the conflict.

On the basis of their findings, the four mandate holders address recommendations to the Governments of Israel and Lebanon, to Hezbollah, to the Human Rights Council, to the Commission of Inquiry established by Council resolution S-2/1 and to the international community.

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I. INTRODUCTION

1. The Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt; the Representative of the Secretary-General on human rights of internally displaced persons, Walter Kälin; and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari, visited Lebanon from 7 to 10 September and Israel from 10 to 14 September 2006 at the invitation of the two Governments and in accordance with their respective mandates.

2. The main objectives of the mission were (i) to assess, from the perspective of international human rights and humanitarian law as covered by their respective mandates, the impact on the civilian populations of the armed conflict that affected southern Lebanon and other parts of the country and northern Israel between 12 July and 14 August 2006; (ii) to advise the authorities on fulfilling their responsibility to protect and assist affected civilians in accordance with their human rights obligations and in light of the challenges faced by the respective Governments; and (iii) to make recommendations to United Nations agencies and other relevant actors on how best to address the protection needs of the people concerned, especially the most vulnerable among them.

3. The mission was undertaken by the four mandate holders on their own initiative in response to a suggestion by the President of the Human Rights Council. The mission was entirely independent of the Commission of Inquiry established on the basis of Council resolution S-2/1.

4. In Lebanon, the mission met with President Lahoud, Prime Minister Siniora, and the Ministers for Foreign Affairs, Health, the Interior, Justice, and Social Affairs as well as with representatives of several governmental agencies and the Parliamentary Human Rights Committee, the Lebanese Armed Forces and international agencies. It visited the southern suburbs of Beirut and travelled to the south, including Tyre, Bint Jbeil and Ayta ash-Shab. In Israel, the mission met with the Chief Justice and government officials, including the Minister of Tourism, the senior Media Adviser to the Prime Minister, senior officials of the Ministry of Foreign Affairs and the Ministry of Health, the former Intelligence Research Chief, and the Head of the control department in the operations division and officers of the Home Front Command of the Israeli Defence Forces (IDF), the parliamentary commission on human rights as well as the legal advisers to IDF and to the Ministry of Foreign Affairs. The mission also travelled to the north of the country, including Mrar, Kiriath Shmona, Majd al Krum, Nahariya, Haifa and Nazareth. In both countries, the mandate holders met with representatives of civil society organizations as well as victims of the conflict.¹

5. The members of the mission express their appreciation for the full cooperation of the relevant authorities and for the open and constructive manner in which discussions took place in both countries. They are also very grateful to members of civil society for the meetings held and information provided, and to the many individual victims who shared their stories.

II. GENERAL CONTEXT

6. The history of Lebanon and Israel is marked by tensions and a succession of conflicts, notably in 1978 and 1982. In May 2000, the Government of Israel withdrew its troops from Lebanon as requested by the Security Council in resolutions 425 (1978) and 426 (1978). On 2 September 2004, the Council adopted resolution 1559 (2004) in which it reiterated its strong support for the territorial integrity, sovereignty and political independence of Lebanon and called upon all remaining forces to withdraw from Lebanon, and for the disbanding and disarmament of all Lebanese and non-Lebanese militias. In April 2005, the Government of the Syrian Arab Republic withdrew its troops from Lebanon which had been present on Lebanese territory since 1976. Despite the continuing dialogue on the issue within Lebanon, Hezbollah has not yet disarmed despite the Lebanese Cabinet decision stipulating that “there will be no weapons or authority in Lebanon other than that of the Lebanese State”.²

7. On 12 July 2006, Hezbollah fighters crossed the border into Israel, attacked an Israeli patrol near the village of Zarit, killed eight Israeli soldiers and returned to Lebanon with two captured Israeli soldiers. This triggered a major armed conflict between Hezbollah and Israel. Lebanon suffered air, sea and land attacks, and Hezbollah launched thousands of rockets on northern Israel.

8. The conflict had far-reaching effects on the civilian population. In Lebanon, 1,191 people were reportedly killed and 4,405 wounded.³ Children accounted for one third of casualties and deaths and an estimated 45 per cent of internally displaced persons (IDPs).⁴ Tens of thousands of homes and much public infrastructure were damaged or destroyed and up to an estimated 1 million persons were displaced. Humanitarian access to those who were unable or unwilling to leave endangered areas became difficult and limited, and some communities were isolated for prolonged periods of time.

9. In Israel, Magen David Adom statistics indicate that 43 civilians were killed, including seven children. One third of those killed were Arab Israelis. Seventy-five civilians were seriously injured, 115 suffered moderate wounds and 807 suffered light wounds.⁵ Several hundred thousand persons were displaced and many more forced to live for some of the time in shelters.⁶

10. On 11 August 2006, the Security Council adopted resolution 1701 (2006) in which the Council, *inter alia*, called for “a full cessation of hostilities based upon, in particular, the immediate cessation by Hezbollah of all attacks and the immediate cessation by Israel of all offensive military operations”, emphasized “the importance of the extension of the control of the Government of Lebanon over all Lebanese territory” and expanding the United Nations Interim Force in Lebanon (UNIFIL) and its mandate.

11. On the same day, the Human Rights Council convened its second special session. In resolution S-2/1 the Council strongly condemned the grave Israeli violations of human rights and breaches of international humanitarian law in Lebanon. It further decided to establish and immediately dispatch a high-level commission of inquiry to investigate, *inter alia*, the systematic targeting of civilians by Israel in Lebanon and to assess the impact of Israeli attacks on human life, property, critical infrastructure and the environment.

12. While the fighting continued after the adoption of Council resolution 1701 (2006) and even intensified up to the last moment, the cessation of hostilities took effect on 14 August 2006 at 8 a.m. Immediately afterwards, in both countries persons displaced by the conflict began returning in large numbers to their areas of residence. The homes of many returnees to southern Lebanon had been destroyed, and they faced shortages of water and electricity as well as very limited access to health and other public services damaged during the conflict. Unexploded ordnance, especially cluster bomblets, also presented great dangers to the civilian population, particularly in southern Lebanon. Returning Israelis found homes and other amenities destroyed and damaged.

13. While this report considers these matters from the perspectives of the authors' mandates, strict space and other constraints preclude an exhaustive analysis of all of the relevant issues. These include, for example, questions relating to the *jus ad bellum*, the killing of four United Nations military observers by IDF,⁷ humanitarian corridors, post-ceasefire incursions by Israel into Lebanon and the relationship between Hezbollah, Lebanon and other States. Each of these, and a range of other issues, pose important questions which go beyond the scope of the present report. While comparisons of the respective impacts of the conflict on the two sides are often made, the purpose of this report is to provide detailed legal and factual information and analysis as to the human rights consequences of the conflict. It is for the Council and others to whom the report is directed to draw appropriate conclusions from the data and the analysis provided.

III. THE LEGAL FRAMEWORK

A. Human rights law

14. Both Israel and Lebanon are parties to the major human rights treaties relevant to the current situation.⁸

15. Human rights law does not cease to apply in times of war, except in accordance with precise derogation provisions relating to times of emergency.⁹ More specifically, the International Covenant on Civil and Political Rights (ICCPR) and other international human rights instruments allow for the possibility, in circumstances that threaten the life of the nation, to derogate from certain of its guarantees provided that the measures are strictly necessary and are lifted as soon as the public emergency or armed conflict ceases to exist.¹⁰ Certain guarantees, in particular the prohibition of torture and cruel, inhuman or degrading treatment or the right to life, are non-derogable.¹¹ Lebanon has not declared an emergency in accordance with ICCPR article 4, but it did proclaim a national state of emergency on 12 July 2006. Israel remains in a state of public emergency proclaimed on 19 May 1948, four days after its Declaration of Establishment.¹² Upon ratifying the Covenant, it made a declaration regarding the existence of this state of emergency and noted a reservation to article 9 (liberty and security of person).¹³ As regards economic, social and cultural rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR) does not explicitly allow for derogations in time of public emergency, but the guarantees of the Covenant may, in times of armed conflict, be limited in accordance with its articles 4 and 5 and because of the possible scarcity of available resources in the sense of article 2, paragraph 1.¹⁴

16. Human rights law and international humanitarian law are not mutually exclusive but exist in a complementary relationship during armed conflict, and a full legal analysis requires consideration of both bodies of law.¹⁵ In respect of certain human rights, more specific rules of international humanitarian law may be relevant for the purposes of their interpretation.¹⁶

17. The international human rights regime, consisting of the full range of economic, social and cultural rights (such as those pertaining to the highest attainable standard of physical and mental health and adequate housing), as well as civil and political rights, thus applies to the analysis of this conflict.

18. As regards the territorial scope of application, ICCPR article 2 obliges each State party “to respect and to ensure to all individuals within its territory and subject to its jurisdiction” the rights recognized within it. The International Court of Justice concluded that ICCPR “is applicable in respect of acts done by a State in the exercise of its jurisdiction outside its own territory”.¹⁷ ICESCR and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) contain no provision limiting their application to the territory of States parties. Articles 2 (1) and 16 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) refer to each State party’s obligation to prevent acts of torture “in any territory under its jurisdiction”.

19. Although Hezbollah, a non-State actor, cannot become a party to these human rights treaties, it remains subject to the demand of the international community, first expressed in the Universal Declaration of Human Rights, that every organ of society respect and promote human rights. The Security Council has long called upon various groups which Member States do not recognize as having the capacity to do so to formally assume international obligations to respect human rights.¹⁸ It is especially appropriate and feasible to call for an armed group to respect human rights norms when it “exercises significant control over territory and population and has an identifiable political structure”.¹⁹

20. This report focuses not only on violations of the right to life and related civil and political rights, but also specifically on the rights to health and housing²⁰ and the plight of IDPs.

21. As citizens of their respective countries, IDPs are entitled to enjoy the protection of all guarantees of international human rights and humanitarian law subscribed to by the State concerned or applicable on the basis of customary international law. At the same time, they have specific needs distinct from those of the non-displaced population which must be addressed by specific protection and assistance measures. These rights are reflected and detailed in the Guiding Principles on Internal Displacement.²¹

B. International humanitarian law

22. Both Israel and Lebanon are parties to the Geneva Conventions of 12 August 1949. Lebanon is a party to Additional Protocols I and II to the Geneva Conventions. All of the parties to the conflict are also subject to customary international humanitarian law.²²

23. The mission was informed by representatives of IDF that decisions were taken on the basis of the law on international armed conflicts, in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (Fourth Geneva

Convention), and those provisions of the Additional Protocol I that are declaratory of customary international law. While the qualification of the conflict as international or non-international is complex, this report is mainly based on international customary law applicable in both forms of conflict.

24. Of the rules applicable to attackers, the most relevant relate to the principle of distinction, the principle of proportionality, and the obligation to take precautionary measures. These obligations are cumulative: an attack must comply with all of the rules in order to be lawful.

25. First, under the principle of distinction, the parties to a conflict must at all times distinguish between civilians and combatants,²³ and attacks may be directed only at military objectives, defined as 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, offers a definite military advantage.²⁴ The only circumstance in which civilians may be targeted is for such time as they take a direct part in hostilities.²⁵ Thus, attacks on civilian objects²⁶ are unlawful unless at the time of the attack they were used for military purposes and their destruction offered a definite military advantage.

26. Indiscriminate attacks are similarly prohibited.²⁷ They are those which (i) are not directed at a specific military objective; (ii) employ a method or means of combat which cannot be directed at a specific military objective; or (iii) employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.²⁸ Attacks by bombardment, including with rockets, which treat as a single military objective a number of clearly separated and distinct military objectives located in an urban area or rural village are prohibited.²⁹ The prohibition of indiscriminate attacks must not only determine the strategy adopted for a particular military operation but also limit the use of certain weapons in situations where the civilian population will be affected.

27. Second, under the principle of proportionality, attacks on legitimate military objectives which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, are prohibited.³⁰

28. Third, an attacker must take all feasible precautions to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.³¹ A number of specific precautionary measures are prescribed by humanitarian law in relation to the planning and conduct of attacks.³² In addition, an attacker is required to give effective advance warning of attacks which may affect the civilian population, unless circumstances do not permit.³³

29. International humanitarian law also imposes obligations on defenders. The use of human shields is prohibited.³⁴ Violation of this rule may be understood to require the defender's specific intent to use civilians to immunize otherwise legitimate military objectives from lawful attack.³⁵ In addition to this prohibition, the defender also has affirmative obligations to protect civilians by keeping them away from military targets.³⁶

30. A violation of the obligation to take precautionary measures vis-à-vis the civilian population or their use as human shields by one side to a conflict does not change the obligations incumbent on the other party to the conflict to weigh what constitutes an excessive attack in relation to concrete and direct military advantage.

31. Because of time, informational and other constraints, the mission was not in a position to evaluate the responsibility of individuals for crimes under national or international law. However, serious violations mentioned above and other principles of international humanitarian law by individuals constitute war crimes. States must investigate war crimes allegedly committed by their nationals or armed forces, or on their territory, and, if appropriate, prosecute the suspects.³⁷ They must also investigate other war crimes over which they have jurisdiction and, if appropriate, prosecute the suspects.³⁸

IV. THE PROTECTION OF THE CIVILIAN POPULATION DURING THE CONFLICT³⁹

A. Lebanon

32. During “Operation Change of Direction” from 13 July to 14 August 2006, IDF undertook two parallel efforts, an “air war” involving attacks on Hezbollah fixed and mobile targets and Lebanese infrastructure and private homes, and a “ground war” involving the invasion of Lebanon and direct engagements with Hezbollah fighters.

33. In the conduct of the air war - which had a greater impact on the civilian population compared to the limited ground invasion - Israel used air, naval and army forces. The Israeli Air Force flew some 15,500 sorties over Lebanon, attacking more than 7,000 “targets”.⁴⁰ The Israeli Navy conducted over 2,500 bombardments of targets within range of the Lebanese coast. The Israeli Army fired tens of thousands of artillery shells and multiple launch rockets.⁴¹

34. In the conduct of the hostilities, Israel is accused of having violated the principle of distinction between military and civilian targets, the principle of proportionality, and the prohibition of indiscriminate attacks. Hezbollah is accused of having used the civilian population of Beirut’s southern and eastern suburbs (*Dahiye*) and of towns and villages in southern Lebanon as “human shields”. These alleged violations need to be discussed because of their impact on human life, housing, health and internal displacement covered by the mandates of the four independent experts.

1. Precautionary measures and principled limits to the conduct of hostilities

35. Both for principled and pragmatic reasons, Israel set certain limits on the conduct of its hostilities with Hezbollah.⁴² The mission was informed by IDF representatives that Israel followed its practice of drawing up lists of potential targets, with each individual target, as well as the type of weapon to be used, being reviewed by an IDF expert in humanitarian law.

36. Israel made extensive use of leaflets dropped from the air and of telephone calls to warn civilians of impending attacks, an obligation which applies unless circumstances do not permit.⁴³

While the mission found some aspects of the warnings to be highly problematic (see para. 66 below), they certainly saved many lives, both in south Beirut and south of the Litani river.

37. But despite Israel's stated goal of conducting hostilities within the parameters set by international humanitarian law,⁴⁴ the actual practice fell short in various respects, including:

- A refusal to consistently distinguish Hezbollah fighters from civilians, including civilian members of Hezbollah (see paras. 38-48 below);
- An approach to vetting targets that appears to have treated entire categories of dual-use objects as legitimate military objectives (see paras. 49-51 below); and
- The reckless, perhaps even deliberately reckless, use of cluster munitions (see paras. 52-57 below).

2. Attacks on Hezbollah and the principle of distinction

38. One well-informed analysis of Israel's targeting policies concluded that they were premised upon the permissibility of targeting the whole of Hezbollah's infrastructure:

“Targets belonging to the Hezbollah infrastructure which support the terrorist-operative apparatus in the Shi'ite neighborhoods of south Beirut (e.g., Dahiya) and other locations in Lebanon [are]: headquarters, offices, buildings serving Hezbollah's various branches, leaders' residences and the bunkers they are hiding in, as well as the organization's 'information' infrastructure (Al-Manar TV) and offices of the organization's social and financial infrastructure.”⁴⁵

39. Such an enumeration of permissible targets is inconsistent with the principle of distinction.

40. While Hezbollah was in conflict with Israel, it does not follow that every member of Hezbollah could be justifiably targeted. Individuals do not become legitimate military objectives unless they are combatants or civilians directly participating in hostilities. Many members and supporters of Hezbollah do not meet either criterion. Similarly, not every building owned by or associated with Hezbollah constituted a legitimate military objective. Hezbollah is, in addition to being an organization using violence, a political movement and social services enterprise, particularly in the *Dahiye* and the areas of southern Lebanon with a Shiite majority population. It runs medical facilities, schools, groceries, an orphanage, a garbage service and a reconstruction programme for homes damaged during Israel's invasion. It is the country's second-largest employer,⁴⁶ holds 14 seats in parliament and, since 2005, is part of the Government.

41. Various Israeli targeting decisions operationalized this failure to distinguish military from civilian objectives. For example, some of the warnings stated that, “[a]ny vehicle of any kind travelling south of the Litani River will be bombarded, on suspicion of transporting rockets, military equipment and terrorists”.⁴⁷ Israel's responsibility to distinguish between combatants and civilians is in no way discharged by warning civilians that they will be targeted. Warnings are required for the benefit of civilians, but civilians are not obligated to comply with them. A

decision to stay put — freely taken or due to limited options — in no way diminishes a civilian's legal protections. It is categorically and absolutely prohibited to target civilians not taking a direct part in hostilities.

42. As regards the destruction of high-rise buildings in the south-eastern suburbs (*Dahiye*) of Beirut, Israeli bombing destroyed about 150 apartment buildings and damaged approximately the same number. Because the buildings, which would normally have housed between 30,000 and 60,000 persons,⁴⁸ had been nearly entirely evacuated before they were struck, the loss of life was limited. Because the mission was not able to obtain from the Lebanese authorities disaggregated data about the geographical distribution within Lebanon of the overall 1,191 deaths, a more precise statement is not possible at this stage. It also remains, moreover, unclear how many of those killed were Hezbollah fighters.⁴⁹

43. The IDF position is that each building targeted constituted a specific military target according to the definition of Hezbollah infrastructure outlined above, the most important being the Hezbollah headquarters and the bunkers with alleged long-range rocket launch sites. They argue that the fact that individual buildings remain standing next to others completely destroyed shows that IDF targeting was appropriately selective. The mission's requests for specific information as to the military objective pursued with the destruction of each building and the concrete and direct military advantage anticipated at the time of attack, however, remained unanswered on the grounds that such information must remain classified. This response is inadequate, however, in light of the evidence available.⁵⁰

44. In South Lebanon,⁵¹ thousands of buildings were destroyed and many others damaged by IDF attacks.⁵² The mission did not obtain any precise data as to the overall number of persons killed in South Lebanon during the conflict although it is clear that a great many civilians were killed. As to the number of Hezbollah fighters among the dead, figures contained in Hezbollah statements vary widely from those provided by the Government of Israel.⁵³

45. The mission drove through a stretch of South Lebanon from Tyre to Ayta ash-Shab through Qana and Bint Jbeil and its members witnessed the destruction of hundreds of houses, some of which had been bulldozed.

46. According to Israel, buildings were targeted in the "air war" primarily on the basis that they served as launching or storage sites for rockets or other materiel, and secondarily on the basis that they hosted Hezbollah fighters. Video footage provided by Israel shows instances of rockets being fired from residential buildings and thus confirms instances of Hezbollah abusing civilian objects in its military operations. But this cannot be dispositive justification for the destruction of hundreds of civilian houses in South Lebanon, nor other distant houses or infrastructure. In order to show that the attacks did not violate the principles of distinction and proportionality and the prohibition of indiscriminate attacks Israel would need to provide substantially more and qualitatively different information relating to questions such as the kind of information on the basis of which specific houses and villages were targeted, the time lapse between the firing of a rocket from a house or village and the IDF attack in response, and the estimate by IDF of civilian presence in and around the target at the time of the strike. In the absence of such information the mission cannot conclude that the widespread targeting of civilian houses by IDF complied with international humanitarian law. In the absence of

systematic evidence of any type, however, it is impossible to confirm the validity of the claim that every target was a legitimate military objective or that the principle of distinction was respected.⁵⁴

47. The same conclusion must be drawn regarding the reports of 12 destroyed and 38 severely damaged health facilities, notably in Bent Jbeil, Marjayoun and Nabatieh.⁵⁵ Ambulances and medical convoys were, according to ICRC, also hit during the conflict.⁵⁶ In the absence of concrete evidence to the contrary, it must be assumed that the health facilities and ambulances attacked were not legitimate targets. In this context it is important to stress that killing persons placed *hors de combat* is prohibited at any time and in any place whatsoever.⁵⁷

48. There are well-documented reports of IDF strikes on civilian convoys fleeing villages in the South as a result of IDF warnings, including that which killed 21 civilians fleeing Marwahin.⁵⁸ Israel has generally not disputed that these strikes occurred or that deaths resulted, but it has argued that if civilian convoys were attacked it was justified by Hezbollah's abuse of civilian convoys to move around fighters and materiel. The mission could not carry out any significant fact-finding to assess whether Hezbollah did in fact misuse the Marwahin or other convoys in this way. But it is important to note that the answer to this question would not by itself resolve the matter. To do so Israel would need to detail how many fighters were estimated to be among the civilians, the kind of materiel they were transporting, what precautions were taken to limit the impact of the strike on the civilians in the convoy, the concrete and direct military advantages anticipated at the time of attack and how did they outweighed the expected civilian casualties, and whether full consideration was given to other options designed to obtain the desired military effect.

3. Attacks on dual-use objects

49. The conflict was characterized, inter alia, by large-scale aerial attacks on parts of the Lebanese infrastructure, in particular roads and bridges.⁵⁹ The mission notes that such attacks on the transportation infrastructure had a particularly debilitating effect on the safe transportation of IDPs, the provision of humanitarian assistance and access to medical care, and thus raises questions from a human rights perspective. Israel justifies these attacks with reference to the military use of these objects, turning them into so-called dual-use objects that can be legitimately attacked.

50. In characterizing objects, in particular objects that serve primarily civilian purposes, as legitimate military objectives (see para. 38 above), Israel relies heavily on the "list of categories of military objectives" included in the ICRC Draft Rules for the Limitation of the Dangers Incurred by the Civilian Population in Time of War (1956). The list is relevant, but it cannot be seen as the end point of an analysis. The current legal rule, adopted in Additional Protocol I and recognized as customary, not only requires that the targeted objects, due to "their nature, location, purpose or use make an effective contribution to military action", but also demands that their "partial or total destruction, capture or neutralization, in the circumstances ruling at the time, [offer] a definite military advantage".⁶⁰ The law in force thus imposes a test that requires an object-specific and context-specific assessment of each target rather than a test based on an object's generic classification.

51. The distinction between a categorical and a context-specific approach is crucial to evaluating Israel's targeting practice during this conflict. For example, a road connecting southern Lebanon to the rest of the country could be considered to contribute to Hezbollah's military action and a bridge along such a road may thus be a legitimate military objective.⁶¹ But no such justification is plausible for most other areas, including targets in areas inhabited by populations with no links to Hezbollah. The mission notes that such attacks on the transportation infrastructure have a particularly debilitating effect on the safe transportation of IDPs, the provision of humanitarian assistance and access to medical care.

4. The use of cluster bombs in southern Lebanon

52. The principal concern of many of the mission's interlocutors in Lebanon was the massive use by IDF of cluster munitions and the ongoing impact of unexploded sub-munitions (bomblets) on the civilian population.

53. The United Nations Mine Action Coordination Centre (UNMACC) in Tyre had, as of 23 September 2006, recorded and confirmed 590 individual cluster bomb strike locations,⁶² mainly in built-up⁶³ and agricultural areas, and UNMACC was continuing to discover additional strike locations. These unexploded bomblets are small, often difficult to spot and highly volatile. Between the end of the armed conflict and 26 September 2006, unexploded cluster bomb sub-munitions killed 14 and injured 90.

54. The available information is not sufficient to estimate the total number of bomblets with confidence or precision. The total number of bomblets - exploded and unexploded - could conceivably be as low as 158,000 or as high as 1,170,000. However, on the basis of the information available about the type of cluster munitions used by IDF, about the overall quantity of such weapons expended and the strike sites and bomblets found and destroyed, the mission finds the most likely estimate to be that between 850,000 and 1 million bomblets were expended. Depending on the failure (dud) rate, which appears to have been particularly high in this campaign, it is likely that between 170,000 and 340,000 unexploded bomblets were left in southern Lebanon. Some 15,000 bomblets had been found and eliminated at the time of the visit.

55. The justification given by the Government of Israel for the use of cluster bombs is that they were the most effective weapon against Hezbollah rocket launch sites. This argument is, in the abstract, compatible with a military rationale for the use of anti-personnel cluster bombs, as the radius of damage extends to the size of a football field and thus is able to neutralize mobile rocket launchers. The IDF interlocutors of the mission did not provide any information that would confirm that these weapons were in practice used in a manner consistent with this military rationale.

56. Regardless of whether the military rationale was sound, the use of cluster munitions was inconsistent with principles of distinction and proportionality. Israel could not reasonably have been ignorant of the fact that the sub-munitions dispersed by cluster munitions have a high failure (dud) rate. In effect, then, the decision was taken to blanket an area occupied by large numbers of civilians with small and volatile explosives. The impact of these bomblets would obviously be indiscriminate and the incidental effects on civilians would almost certainly be disproportionate. Nothing the mission heard from IDF suggests that their long-term effects on the civilian population was considered problematic before the decision to use cluster munitions

was made. The mere fact that cluster munitions are not a banned weapon should not have led Israel to overlook other requirements of international humanitarian law.

57. Moreover, one government official acknowledged that cluster bombs were used in part to prevent Hezbollah fighters from returning to the villages after the ceasefire. As these sites were often located in civilian built-up or agricultural areas, the long-term effect on the civilian population should have been obvious.⁶⁴ This rationale would be consistent with reports from UNMACC and other sources that the majority of the cluster munitions were delivered in the final 72 hours of the conflict, when a ceasefire was imminent. While some Government of Israel interlocutors denied the allegation, others spoke of a gradual crescendo in the use of cluster bombs during the last 10 days of the conflict.

5. Use by Hezbollah of civilian sites for military activities

58. It is clear that Hezbollah made at least some use of houses and other civilian sites to hide or conceal military activities. Although systematic evidence was not presented to the mission in this regard, the Government of Israel has provided it with video material unmistakably showing rockets being launched from civilian residential buildings in South Lebanon. This conduct was a violation of international humanitarian law obligations. The question of whether Hezbollah used human shields is more complicated, and the mission did not receive clear evidence on that issue. Under international law, the term “human shield” is appropriate when there is “an intentional collocation of military objectives and civilians or persons *hors de combat* with the specific intent of trying to prevent the targeting of those military objectives”.⁶⁵ This relatively precise definition of the term should be maintained, especially in light of the distinction between war crimes and other violations of humanitarian law.⁶⁶

6. Impact on the civilian population

59. During the 34 days of the conflict, the population in the affected areas suffered violations of a broad range of their human rights. Many lost their lives, homes and livelihoods. While many civilians were physically injured, many more suffered intense distress, in some cases amounting to post-traumatic stress disorder. By hitting hardest the most disadvantaged members of society, including the elderly, children, households headed by women and those living in poverty, the conflict deepened pre-existing inequalities.

60. The destruction of homes in villages of the south of the country is said to have been the main cause of civilian deaths during the conflict. According to UNIFIL, on 15 August 2006, in Tayyabah, 80 per cent of the civilian houses were destroyed, 50 per cent in the villages of Markaba and Qantarah, and 30 per cent in Mays al Jabal.⁶⁷ In the *Dahiya*, some 150 apartment buildings were destroyed and approximately the same number damaged. Between 30,000 and 60,000 persons are left without homes.⁶⁸ The death of at least 28 civilians due to the collapse of a three-storey residential building hit by Israeli missiles in Qana on 30 July 2006,⁶⁹ underscores the relevance of destruction of buildings as a cause of death of civilians. A significant number of deaths were also reported in areas outside Beirut and the south of Lebanon such as in the Bekaa Valley.⁷⁰

61. The demolition of homes in violation of international humanitarian law (see para. 46 above) and subsequent displacement⁷¹ amounts to forcible eviction and calls into question

numerous international human rights requirements. As stated by the Commission on Human Rights in its resolution 1993/77, forced evictions constitute “gross violations of human rights, in particular the right to adequate housing”.⁷²

62. The destruction of thousands of homes forced many displaced families to live in situations marked by high density, lack of access to water, sanitation, electricity, health care and generally insecure housing and living conditions.⁷³ Others were forced to live in the open in places such as the Samaya Garden. This impacted on the well-being of individuals and families and contributed to mental health problems, especially among women and children.

63. One of the requirements of the right to the highest attainable standard of health is that health care be accessible to all, including children, the elderly, women, people with disabilities, and other especially vulnerable individuals and groups.⁷⁴ During the conflict, the remaining inhabitants of a number of villages in South Lebanon became extremely isolated, seriously jeopardizing their access to elementary health care. While many inhabitants fled, most of those remaining were elderly or people with disabilities.⁷⁵ Their acute vulnerability was compounded by the security situation, which made it dangerous for anyone to travel.⁷⁶ The destruction of roads and bridges made it very difficult for the villages to be reached by emergency medical and other services. If pre-packaged emergency medical kits reached the isolated communities, the contents of the kits did not always cater for the distinctive chronic health problems of the elderly (e.g. hypertension and diabetes), although agencies tried to supplement the kits as necessary. Inhabitants who were able to leave their villages to seek medical care often found the local health clinics destroyed, damaged or closed (see para. 47 above). During hostilities, access to mental health care became a major issue: in the last week of the conflict, Médecins sans Frontières reported that 20-30 per cent of all its consultations related to mental health problems.⁷⁷ These isolated communities of especially vulnerable people also suffered from a lack of other elements of the right to the highest attainable standard of health, including access to water (see para. 89 below). Although the problem of access to basic health care was especially grave in relation to these isolated rural communities, the problem extended beyond these villages.

64. The same communities also suffered from severe problems relating to denials of the right to adequate housing, such as access to potable water, sanitation and electricity.

65. The military operations caused large-scale displacement. According to official government figures, 974,184 persons were displaced by the conflict, an estimated 128,760 of whom were accommodated in schools and other public buildings. An estimated 220,000 fled to the Syrian Arab Republic and other countries while the rest remained in Lebanon. A total of 128,760 IDPs were accommodated in schools or with families or friends⁷⁸ and 200,000 remain displaced because Israeli military operations damaged or destroyed their homes.⁷⁹

66. While some IDPs left on their own initiative, others were warned by IDF which dropped leaflets from planes or made individual telephone calls (see para. 41 above).⁸⁰ International human rights law prohibits arbitrary displacement - a notion which includes displacement in situations of armed conflict - which is not warranted by the need to ensure the security of the civilians involved or imperative military reasons.⁸¹ The principle of precaution requires each party to the conflict to give effective advance warning of attacks which may affect the civilian

population, and give it enough time and the opportunity to evacuate safely, unless circumstances do not permit.⁸² Reported cases of civilians attacked while fleeing cast doubt as to whether these obligations were always met.⁸³

67. As regards protection and assistance for the displaced persons, one has to note that, while Lebanon has experienced displacement before, it was caught unprepared by the magnitude of the recent displacement. The intensity of the conflict affecting large parts of the country, the degree of destruction of civilian infrastructure and the far-reaching limitations on humanitarian access exacerbated the crisis. Despite an unprecedented degree of support and solidarity by non-governmental organizations and civil society and the population at large, many IDPs were in desperate need of assistance, especially the elderly, ill and poor, often consisting of large families with small children. While maternal mortality and morbidity rates did not deteriorate among the IDPs, the mission was informed that maternal health and the health of newborns were compromised.⁸⁴ The Lebanese authorities, other Lebanese actors and the international community managed to avoid a large-scale humanitarian crisis among the IDPs despite very difficult circumstances.

B. Israel

1. The conduct of hostilities by Hezbollah

68. The public statements of the Secretary-General of Hezbollah, Hassan Nasrallah, explicitly reject the requirements of international humanitarian law, and Hezbollah's conduct appears to reflect this lawless approach to the conduct of armed conflict. While many of his statements do recognize that there are valid distinctions between civilians and combatants and between civilian and military objects,⁸⁵ they argue that Hezbollah has a right, and even a duty to disregard these distinctions in the pursuit of victory.

69. First, these statements reject the absolute character of the principle of distinction.⁸⁶ Second, these statements argue that Hezbollah has a right to violate humanitarian law in so far as Israel does so: when "the Zionists" in their conduct abandoned all rules, red lines and limits of engagement, it became Hezbollah's right to respond in like fashion. This analysis leads to the conclusion that so long as Hezbollah's violations of the law are "reactions" to Israeli excesses - whether violations of the law or of otherwise defined limits of engagement - they are justified.⁸⁷

70. The notion that one party's violation of humanitarian law may justify the other party's violation is called reprisal. Leaving aside the question of requirements for a reprisal to be legitimate, reprisals against civilians are absolutely prohibited.⁸⁸

71. Hezbollah's actual conduct was consistent with Mr. Nasrallah's public statements. Of the 4,000-4,500 rockets fired, about 900 hit built-up areas, i.e. villages, towns, and cities; the remainder landed in "open areas", according to Israeli sources.⁸⁹ The vast majority of rockets (more than 50 per cent) landed in three areas: Kiryat Shmona, Nahariya and Tzfat (Safed). Other hard-hit towns include Karmiel, Akko (Acre), Haifa, and Tiberias. Although IDF provided no evidence that military installations had been hit, the number of Israeli soldiers killed and wounded would seem to indicate that a significant number of Hezbollah attacks did hit military targets.

72. The vast majority of rockets fired by Hezbollah were 122-mm “Katyushas”, some of them with a larger warhead and modified to increase the range up to 50 km. But a variety of other weapons were also used, including 220-mm mobile rockets modified to carry thousands of small ball bearings, which spray out over a radius of up to 300 m when the rocket strikes and thus maximize harm to persons.⁹⁰

73. The Katyushas and 220-mm mobile rockets have an accuracy of 300-400 m when used at maximum range. As a consequence, when they hit civilian targets such as hospitals or villages which are more than 1 km away from a military target, it is reasonable to assume that they have either targeted the object in question or that their use is indiscriminate.

74. Thus, for example, some 20 rocket strikes reportedly hit the immediate vicinity of the Nahariya Hospital (located 6 km from the Lebanese border). They included one direct hit on 28 July which caused major damage to an ophthalmology ward. In the absence of a plausible military target within 1 km of the hospital, this would seem to suggest illegal targeting of a civilian building.

75. Overall, there emerges a clear picture of Hezbollah rocket attacks on Israeli civilians and civilian buildings and infrastructure in violation of the applicable norms of international humanitarian law, and in many instances of the prohibition on indiscriminate attacks and of the principle of distinction.

2. Impact on the civilian population

76. It is estimated that 300,000 individuals fled or were evacuated from the dangers of Hezbollah rocket attacks on northern Israel,⁹¹ a region with a population of more than 2 million.⁹² They found refuge in safe parts of the country, renting private accommodation in hotels and guesthouses, staying with family and friends, or provided with shelter by private individuals or non-governmental organizations.

77. Those who did not leave had to seek refuge in air-raid shelters under ground. In Israel, these shelters, which can be private or public, constitute an essential part of the civilian population protection system. In Kiryat Shmona, for instance, 5,000-10,000 residents who remained in the city lived in shelters. The living conditions in these shelters were said to be appalling, with people suffering from overcrowding, very high temperatures and lack of hygiene and fresh air.⁹³ In some parts of the north, children and adults remained in the shelters almost 24 hours a day for approximately one month. Magen David Adom personnel treated and evacuated over 2,500 casualties, including 1,500 suffering from “anxiety attacks”.⁹⁴ In particular, women and children were reported to have suffered from acute stress arising from the conflict.

78. A large number of houses were destroyed. According to official figures, Hezbollah attacks damaged up to 12,000 buildings, including some 400 public buildings. In Kiryat Shmona, about 2,000 apartments were estimated to have been damaged.⁹⁵ The conflict also had important consequences on the business sector and a correlative impact on the livelihoods of large parts of the population of northern Israel.

79. Many interlocutors felt that despite the good efforts by competent authorities - particularly the Home Front Command and the local authorities - the overall humanitarian response was often inadequate to respond to the needs of IDPs and those remaining in northern Israel. Reportedly, many persons remained in northern Israel involuntarily, in particular because they lacked the financial means to leave, or because they were too old, infirm or sick.⁹⁶ Because no domestic “state of emergency” - provided for by law to trigger additional humanitarian assistance - was declared, local authorities were not provided with the necessary means to respond to all needs. Many of the displaced did not receive sufficient assistance from the authorities. To a large extent, humanitarian assistance was provided by civil society organizations and private individuals. While medical services for both IDPs and those in shelters came from a variety of sources, there were reports that the services were uneven, varying from one locality and provider to another.⁹⁷ During the conflict, hospitals were damaged in Nahariya, Haifa, Tzfat and Mizra.⁹⁸ One of them - a psychiatric hospital - had to be evacuated.⁹⁹ Additionally, some 300 mental health patients living in the community had to be removed from the north to hostels in central Israel.¹⁰⁰

80. The situation of the Arab communities, 60 per cent of which live in the Northern District and Haifa, raises particular concern. Some individuals, including local authorities, have complained about alleged negligence towards Israeli-Arab communities. According to a survey carried out in Israel, only 41 per cent of the Arab Councils have emergency alarm systems and only 46 per cent have shelters - all in schools.¹⁰¹ It was reported that emergency instructions for residents were provided in Hebrew and, exceptionally, in Russian. Moreover, on several occasions Arab Israelis stated that before, during and after the conflict, their communities did not have the same access to health services, including for mental health, as Jewish Israelis.¹⁰² It was also noted that since many Arab Israelis are among the poorer population in Israel, it was difficult for many to flee the area.¹⁰³ All interlocutors who referred to the specific difficulties faced by Arab Israelis during the conflict insisted on the need to analyse this situation in light of the historic discrimination suffered by these communities in Israel.¹⁰⁴

81. It was also alleged that the Israeli Army had installed rocket launching bases near towns and villages in the north, in some cases only a few metres away, such as in the towns of Fassuta, Tarsheeha and 'Arab al-'Aramshe.¹⁰⁵ In the town visited by the mission, Majd-al-Krum residents testified that Israeli artillery was located near the town during the conflict.

V. THE PROTECTION OF THE CIVILIAN POPULATION IN THE AFTERMATH OF THE CONFLICT

A. Lebanon

82. Lebanese Government figures seem to indicate that 200,000 of the original 974,184 IDPs still had not returned to their pre-conflict place of residence as of 24 September 2006.¹⁰⁶

83. Internally displaced persons have a right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist,¹⁰⁷ or, as citizens of the country they are living in, to remain or resettle in another part of the country.¹⁰⁸ Limitations on this right are not subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals, or the rights and freedoms of others.¹⁰⁹

84. While each category of person faces specific problems, the main obstacles to the resumption of a life in safety and dignity are to a large extent shared by persons still displaced, returnees, and those who did not leave their homes in South Lebanon during the conflict. In Lebanon, the major obstacles to resumption of normal life in the affected areas are the violations of the right to adequate housing and health, including the destruction of housing, lack of access to water, electricity and sanitation, and the dangers of unexploded ordnance.

85. Tens of thousands of persons were left homeless in the *Dahiye* and in South Lebanon as a result of the Israeli bombing.¹¹⁰ The mission witnessed efforts to remove the rubble¹¹¹ and rebuild destroyed and damaged housing. These efforts are led by Hezbollah, and in particular its construction arm Jihad al-Bina.¹¹² Reports indicate that, in addition to serving Shiite areas, Jihad al-Bina is also working in predominately Sunni areas, like the northern area of Akkar, where it recently repaired some 200 houses in 13 villages.¹¹³ Hezbollah's apparent efficiency constitutes a considerable challenge to the Government's role and calls for more coordination in post-conflict work than is currently the case.¹¹⁴

86. The Government has been successful in raising funds for reconstruction.¹¹⁵ It has also announced that it would pay US\$ 33,000 to each family whose home had been destroyed,¹¹⁶ but it yet has to make such payments and generally to prove its effectiveness in the reconstruction. In the end, the reconstruction process in Lebanon will probably involve a triangular configuration of private owners, Government and Jihad al-Bina,¹¹⁷ which will require considerable coordination to avoid some victims falling through the cracks. As winter with its cold rains approaches, time is of the essence.

87. The existence of highly volatile, unexploded cluster bomb sub-munitions constitutes a threat to clearing building rubble and, more generally, to the rights to life and health of the population, as evidenced by the 104 casualties they caused as of 23 September 2006, 14 of which were fatal.¹¹⁸ Until the identification of cluster bomb strike locations and the clearance of the sites are completed, or at least significant progress made (a process which UNMACC estimates will take 12-15 months¹¹⁹), people will not be able to go back to their homes, children will not be able to go to school and returnees previously active in agriculture will be deprived of a livelihood.¹²⁰

88. A further complication to the return and reconstruction process is the insecurity surrounding the legal status of a significant portion of the real estate involved. In South Beirut and parts of southern Lebanon, many destroyed buildings reportedly had been constructed illegally and on land owned by the Lebanese State, religious endowments and individuals displaced during the 1975-1989 civil war. There is therefore a real risk of property-related disputes delaying or impeding the reconstruction and return process.

89. Damage to medical facilities combined with shortages of fuel, power, water and supplies have had a major impact on service delivery throughout the districts affected by the conflict.¹²¹ There is a serious gap, for example, in maternal and child care services. Just one in four primary health care facilities are able to provide pre-natal care, and just one in 10 can support proper delivery and emergency obstetric care. One third are able to store vaccines and just 13 per cent are able to provide some mental health services. Normally, all of these facilities should be able to provide all of these services.¹²² The situation remains particularly acute in those communities

in the south that were badly damaged during the conflict (see para. 63 above). The conflict is likely to have deepened pre-existing inequalities in the delivery of health care services in Lebanon.¹²³

90. The right to the highest attainable standard of health not only encompasses health care, but also access to the underlying determinants of health, such as adequate water and sanitation.¹²⁴ Access to water, sanitation and electricity are also essential elements of the right to adequate housing. In Lebanon, inadequate access to water, sanitation and electricity remain among the most serious problems arising from the recent conflict. Local distribution networks (i.e. pipes) have been badly damaged and sewage and garbage collection systems have been interrupted, leading to an increased risk of waterborne diseases.¹²⁵ Isolated enclaves in the south continue to have limited access to safe water, mainly because of the destruction of many private and community-owned water tanks,¹²⁶ the damage to the distribution system and the disrupted electricity supply. The Stockholm Conference for Lebanon's Early Recovery estimated the damage to the water sector at US\$ 81 million, more than a quarter of which will be required for South Lebanon.

91. Although frequently neglected, mental health is an integral element of the right to the highest attainable standard of health.¹²⁷ The recent conflict poses a profound and continuing challenge to the mental and psychosocial well-being of many.¹²⁸ Women, children and the disabled suffer particular stress. Often struggling to care for their families, women may be at increased risk of domestic violence. Behavioural and emotional difficulties are a common and normal reaction to events such as the recent hostilities. Some individuals are suffering from disabling post-traumatic stress disorder and in some cases this condition will continue for the rest of their lives.

92. The rights to health and adequate housing also encompass a safe and healthy environment.¹²⁹ The conflict damaged the environment in a number of ways, not least following the attack on the Jiyeh power plant.¹³⁰ Some 30 km south of Beirut on the Mediterranean coast, Israeli bombs hit Jiyeh on 13 and 15 July. Storage tanks caught fire and burnt for some weeks. Also, 10,000-15,000 tons of heavy fuel spilled into the sea and spread northwards. About 150 km of coastline are affected. The Stockholm Conference for Lebanon's Early Recovery estimated the clean-up costs to be US\$ 50 million.¹³¹ It is premature to assess the long-term impact of the oil spill on, inter alia, human health. While some local health professionals are reporting an increase in asthmatic and skin complaints that may be attributable to smoke and other pollution since the attacks in mid-July, at present these reports are unsupported by firm scientific evidence.

B. Israel

93. In Israel, the number of those who are unable to return to their homes because they have not yet been rebuilt or repaired is reported to be very low. During their visit to the north, the members of the mission could see that the reconstruction was advancing quickly. The Israeli Tax Authority, under the supervision of the Ministry of Finance, administers a fund financed by a percentage of the property tax.¹³² The Director of the Tax Authority announced in an interim report on 23 September 2006 that the Authority had settled some 10,000 claims for direct damage and 25,000 claims for indirect damage suffered during July. Overall, 60,000 claims had been filed. The Tax Authority also announced that it would support 100 families whose homes

are no longer habitable due to extensive damage. Of these, 400 people are still residing in hotels.¹³³ The Government will also compensate those who suffered bodily injury as a result of the conflict, e.g. due to rocket shrapnel.

94. In the course of the visit, however, the mission heard persistent complaints that affected members of the Arab Israeli community were discriminated against and disadvantaged in the payment of compensation for their damages incurred during the war. The perception among some of the mission's interlocutors was that the Tax Authority's assessors would systematically underestimate the property damage suffered by them. Challenging the Authority's assessment requires means which Arab Israelis often lack and delays the payment process, which many cannot afford. Similarly, with regard to claims arising from injuries, the mission heard allegations of health officials unjustly denying claims on the basis that the injury was not proven to be related to the war. Where an injury requires long-term treatment, including for mental health patients, the grave effects of such a determination on the access to health care of the victim and the financial situation of the family are obvious. The mission could neither investigate individual cases of alleged unjust denial, nor of course the alleged systemic and thus discriminatory dimension of such denials.

95. In order to ensure better protection for the civilian population in the future there is a clear need for the authorities to build, repair and upgrade shelters throughout the country, in particular in towns and villages with Arab populations. There is also a need to be better prepared to provide adequate humanitarian assistance in possible future armed conflicts, in particular to the poor, children, the sick and the elderly.

96. An official assessment of the environmental damage caused by the conflict in the north confirms, inter alia, that sewage plants were damaged and, in some cases, effluent had to be released into the sea and atmosphere (by burning).¹³⁴ The mission was also informed that unexploded ordnance remains a problem over a wide area.

97. While medical services have resumed their activities, there is a need to better prepare and equip hospitals for possible future attacks (e.g. fully equipped underground facilities). As in Lebanon, the recent conflict poses a profound and continuing challenge to the mental and psychosocial well-being of the Israeli population, especially women and children and the elderly, giving rise to many cases of post-traumatic stress disorder.¹³⁵ Four weeks after hostilities ended, an Israeli mental health specialist reported that hospitals were receiving "late reactions" to the conflict. He estimated that these amounted to "a few hundreds", but he expected they would climb to "a few thousands". In both countries, health professionals emphasized the high level of stress disorders, observed that it is much too early to assess the full impact of the conflict on individuals' mental and psychosocial health, and urged that more resources be made available on an equitable basis for these extremely important issues.¹³⁶

VI. CONCLUSIONS AND RECOMMENDATIONS

98. **In addition to human rights law, the principles of humanitarian law are entirely applicable to this conflict and deviations from these principles cannot be justified on the basis of the alleged novelty or distinctiveness of this conflict.**

99. **The mission concludes that serious violations of both human rights and humanitarian law have been committed by Israel. Available information strongly indicates that, in many instances, Israel violated its legal obligations to distinguish between military and civilian objectives; to fully apply the principle of proportionality; and to take all feasible precautions to minimize injury to civilians and damage to civilian objects.**

100. **In many instances, Hezbollah violated the applicable principles of humanitarian law, in some cases by targeting the civilian population in northern Israel and in others by disregarding the principle of distinction.**

101. **Violations of international human rights and humanitarian law caused many deaths and injuries, displaced enormous numbers of persons, resulted in the large-scale destruction of homes and infrastructure including medical facilities, and severely interrupted health-related services. The civilian population of southern Lebanon, both those who have now returned and those still unable to return, continue to suffer as a result of the large-scale destruction and the acute danger still posed by unexploded ordnance.**

102. **Future rehabilitation, rebuilding and reconstruction activities must pay particular attention to the most vulnerable and marginalized groups within both countries. They suffered disproportionately during the conflict and their needs and rights are still not adequately reflected in post-conflict plans.**

103. **The mission makes the following recommendations to the Government of Israel:**

(a) **The Government should provide the full details of its use of cluster munitions in order to facilitate the destruction of the unexploded ordnance and to minimize civilian casualties. Despite claims that the relevant “maps” have been provided to the Lebanese authorities, the evidence indicates that the information provided has been inadequate and largely unhelpful. The Government should immediately provide comprehensive information, including the grid references of the targets, and should cooperate fully in the programme to eliminate the remaining unexploded bomblets;**

(b) **The mission accepts that the Government has devoted considerable professional resources to vetting targets for compliance with international humanitarian law. In the absence of systematic evidence of any type, however, it is impossible to accept the validity of the claim that every target was a legitimate military objective or that the principle of distinction was respected. The mission calls upon the Government to provide, in relation to all attacks on prima facie civilian targets, a statement as to the alleged nature of the target and the anticipated collateral or incidental effects;¹³⁷**

(c) **The Government should take appropriate measures to investigate whether equal treatment of Jewish and Arab citizens of Israel, in particular regarding compensation for damaged or destroyed property, access to free medical services and the construction of new and the upgrading of existing shelters and alarm systems, is ensured;**

(d) While Israel indicated that it had a policy not intentionally targeting water and power installations, such objects were nevertheless damaged by Israeli attacks. Given the extremely damaging effects on the civilian population of such attacks, the mission urges the Government, as a matter of priority, to formalize its policy in this respect;

(e) A key gap in post-conflict reconstruction activities in the housing, health and other sectors is consultation with those affected. Mechanisms should be devised to remedy this situation and ensure appropriate consultation and participation;

(f) The mission welcomes the establishment of the Governmental Investigative Committee to investigate the management of the campaign. The mission recommends that the mandate of the Committee be interpreted to include the issue of whether violations of human rights and humanitarian law, as well as war crimes, were committed.

104. The mission makes the following recommendations to the Government of Lebanon:

(a) In carrying out the reconstruction process, the Government should establish a Ministry of Housing with overall responsibility for housing-related issues, given the critical importance of the right to adequate housing to the Lebanese population in the post-conflict and recovery phases. There is an urgent need to tackle the issues of safety due to the existence of a large number of damaged homes, the affordability and availability of housing, and speculation in land and property that is making it difficult for low-income families - the majority of the affected - to find a place to live;

(b) The Government should carefully reconsider its policy of providing large numbers of prefabricated housing units for those affected by the conflict. International experience, including the extensive experience of UNHCR, has shown that relying solely on prefabricated housing can have deleterious effects on sustainable housing solutions for the affected;

(c) In an effort to remedy the shortcomings experienced so far, all key domestic and international actors involved in assessing needs and providing housing solutions to people and communities affected by the conflict should seek to coordinate their efforts more effectively. A Ministry of Housing could play an important role in this regard;

(d) The conflict highlighted serious flaws in Lebanon's health system, such as the absence of an adequate health information system, as well as striking inequalities in access to a uniform package of health care. Because these deficiencies impede the population's ability to recover from the conflict, the Government is urged to work vigorously towards establishing an effective, integrated, responsive health system accessible to all, especially children, women, the elderly, people with disabilities and those living in poverty. The immediate challenge is to meet the health needs of those who are displaced, as well as those who have lost their homes and livelihoods. In the medium term, the priority is to re-establish and improve the medical, water, sanitation and electrical facilities in the areas most affected by the conflict;

(e) A key gap in post-conflict reconstruction activities in the housing, health and other sectors is consultation with those affected. Mechanisms should be devised to remedy this situation and ensure appropriate consultation and participation;

(f) The Government should develop, in cooperation with the international community, a comprehensive strategy to assist internally displaced persons and returnees taking into account the most vulnerable groups such as women heads of household and children or elderly people without family support. Such a strategy should use a rights-based approach, in line with the Guiding Principles on Internal Displacement, and urgently address the following protection challenges: (i) access to basic services (in particular shelter, water, sanitation, education and health) for returnees and for the poor and vulnerable among those who continue in displacement; (ii) access to livelihoods, in particular in farming areas affected by UXO; (iii) protection in cases of domestic violence, which are likely to increase in situations of stress and cramped housing and living conditions; and (iv) access to courts and other conflict resolution mechanisms in the context of property disputes that might occur in South Beirut and parts of southern Lebanon.

105. The mission makes the following recommendations to Hezbollah:

(a) Hezbollah should publicly affirm that it is bound by international humanitarian law and should renounce the targeting of civilians in all circumstances;

(b) Hezbollah should train its fighters in the requirements of international humanitarian law, inform its fighters of the possibility of criminal prosecution for serious violations thereof, and take all other necessary measures to ensure future compliance.

106. The mission makes the following recommendations to the Human Rights Council:

(a) Having addressed the conduct of Israel in its resolution S-2/1, the Council should also ensure that Hezbollah's attacks are thoroughly investigated because of their serious consequences for the civilian population in northern Israel;

(b) Hezbollah's extensive use of Katyusha rockets loaded with lethal anti-personnel ball bearings fired towards heavily populated civilian areas constitutes a clear violation of humanitarian law. Whether it also amounts to a war crime is a determination to be made upon the basis of more detailed evidence as to intent than the mission was able to obtain, but the prima facie case is nevertheless a powerful one, and the matter warrants careful investigation;

(c) It is clear that Hezbollah made at least some use of houses and other civilian sites to hide or conceal military activities, although the evidence presented to the mission in that regard was far from systematic. Any further inquiries undertaken by the Council should consider whether such practices violated humanitarian law rules and whether any instances amounted to the use of human shields;

(d) The Human Rights Council should request the relevant international bodies - including the Meetings of States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively

Injurious or to Have Indiscriminate Effects and to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction - to take urgent action to add cluster munitions to the list of weapons banned under international law.

107. The mission makes the following recommendations to the international Commission of Inquiry:

(a) Within the framework of resolution S-2/1, the Commission should examine a cross-section of Israeli attacks to evaluate whether they were directed against legitimate military objectives and respected the principle of proportionality. It should also investigate reported attacks against fleeing civilians, ambulances and health facilities, large-scale displacement and the destruction of housing and property, and determine whether any such acts amounted to war crimes;

(b) While cluster munitions do not per se violate international law, the manner in which they were used by Israel appears to have been inconsistent with the principles of distinction and proportionality. If proven, the widely reported claim that the great majority of these bombs were dropped in the final 72 hours of the campaign, when a ceasefire was imminent, would indicate an intention to inhibit and prevent the return of civilians and a reckless disregard for the predictable civilian casualties that have occurred. These issues warrant in-depth analysis by the Commission.

108. The mission makes the following recommendations to the international community:

(a) The international community should ensure that necessary support continues to be provided to the Lebanese authorities in the reconstruction process;

(b) The international community, including all relevant United Nations agencies, is encouraged to increase its support to the health and housing sectors in Lebanon;

(c) The international community should significantly increase funding for UNMACC in order for it to more expeditiously complete the destruction of unexploded ordnance and allow the population to return to normal life;

(d) The international community – especially donors, United Nations agencies and relevant international non-governmental organizations – must attach a high priority to addressing, in close cooperation with the Governments of Lebanon and Israel and with their respective domestic civil societies, the mental and psychosocial health impacts of the conflict.

Notes

¹ This is not a complete list of those whom the mission met. For example, it met the International Committee of the Red Cross, the Lebanese Red Cross, Magen David Adom, the National Committee for Local Authorities in Israel, the World Health Organization (WHO), the

Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Populations Fund (UNFPA), the United Nations Children's Fund (UNICEF), Jihad al-Bina ("Struggle to Reconstruct") and others. It also visited hospitals in both Lebanon and Israel.

² Cited in the report of the Secretary-General on the implementation of Security Council resolution 1701(2006) (S/2006/730), para. 14.

³ See <http://www.lebanonundersiege.gov.lb/english/F/Main/index.asp?>, as of 26 September 2006.

⁴ UNICEF, Lebanese Situation Report for 1-8 September 2006.

⁵ Information provided by the Government of Israel.

⁶ The most commonly cited figures, appearing in news reports and reports by NGOs, are those disseminated by the Israeli Ministry of Foreign Affairs which indicate that "6,000 homes were hit, 300,000 residents displaced and more than a million were forced to live in shelters." See <http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Terrorism+from+Lebanon-+Hizbullah/Hizbullah+attack+in+northern+Israel+and+Israels+response+12-Jul-2006.htm>.

According to a report by the Police North District submitted to the mission, however, the killed civilians numbered 52, the seriously injured 39, the moderately injured 51 and the lightly injured 770, while an additional 1,466 persons were taken to hospital and treated for shock. With regard to the number of persons forced to live in shelters, the mission's assumption is that the figure of "more than 1 million" provided by the Israeli Ministry of Foreign Affairs covers every person who at any time during the month-long conflict took refuge in a shelter.

⁷ This a matter with which the Security Council is seized. The the Presidential Statement issued by the Council (S/PRST/2006/34) which called upon "the Government of Israel to conduct a comprehensive inquiry into this incident".

⁸ These include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC). In addition, Israel has ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (CRC-OP-AC).

⁹ International Court of Justice, *Legality of the Threat or Use of Nuclear Weapons*, advisory opinion of 8 July 1996, *I.C.J. Reports 1996 (I)*, p. 226, at p. 240, para. 25; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, advisory opinion of 9 July 2004, *I.C.J. Reports 2004*, para. 106; *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, *I.C.J. Reports 2005*, para. 219 (finding substantive violations of human rights law during an armed conflict). Affirmations to the contrary by Israel are not persuasive. See concluding observations of the Human Rights

Committee on the second periodic report of Israel (CCPR/C/ISR/2001/2), in Report of the Human Rights Committee, *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40 (A/58/40)*, vol. I, p. 64, para. 11.

¹⁰ ICCPR, art. 4, para. 1; Human Rights Committee, general comment No. 29 (2001), para. 3.

¹¹ ICCPR, art. 4, para. 2.

¹² CCPR/C/ISR/2001/2, para. 71.

¹³ A/58/40, vol. I, p. 64., para. 12. The Human Rights Committee has expressed concern that the article 9 reservation is broader than is permissible under article 4 of ICCPR, and that Israeli policies related to the state of emergency appear to have unofficially derogated from additional provisions of ICCPR (*ibid*).

¹⁴ See Committee on Economic, Social and Cultural Rights (CESCR), general comment No. 14 (2000), paras. 28-29.

¹⁵ *Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, *I.C.J. Reports 2005*, paras. 216-20, 345(3); *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories*, *I.C.J. Reports 2004*, para. 106; and *Legality of the Threat or Use of Nuclear Weapons*, *I.C.J. Reports 1996*, para. 25. Although the Court concluded in the Nuclear Weapons Advisory Opinion that “[t]he test of what constitutes an arbitrary deprivation of life „ falls to determined by the applicable *lex specialis*, namely, the law applicable in armed conflict”, more recently, in *Congo v. Uganda*, it found independent violations of human rights law during armed conflict without applying the *lex specialis* principle (paras. 216-219).

¹⁶ See Human Rights Committee, general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant (art. 2).

¹⁷ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories, Advisory Opinion*, para. 111. The Court reached the same conclusion with regard to the applicability of CRC. *Ibid.*, para. 113. In *Congo v. Uganda*, para. 220, the Court concluded that Uganda was internationally responsible for its violations of international human rights law committed in both occupied and unoccupied sections of the Congo. The Human Rights Committee has clarified that “a State party must respect and ensure the rights laid down in the Covenant to anyone within the power or effective control of that State party, even if not situated within the territory of the State party”. General comment No. 31 (2004), para. 10. See also Human Rights Committee, *Lopez v. Uruguay*, communication No. 52/1979 (CCPR/C/OP/1), paras. 12.1-12.3 (1984).

¹⁸ However, the respective committees have stressed the relevance of jurisdiction as a criterion to determine the scope of States parties’ obligations. See e.g. CESCR, general comment No. 4 (1991), para. 13 and No. 14 (2000), paras. 12, 51.

¹⁹ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions submitted to the Commission on Human Rights at its sixty-first session (E/CN.4/2005/7), para. 76.

Furthermore, the obligations of Lebanon under international human rights law continue to apply in territories under the control of de facto authorities. Their acts are classified, under the law on State responsibility, as acts of the State to the extent that such authorities are in fact exercising elements of governmental authority in the absence or default of the official authorities, and in circumstances which call for the exercise of such authority (see article 9, Draft Articles on Responsibility of States for Internationally Wrongful Acts, adopted by the International Law Commission at its fifty-third session (2001), in *Official Records of the General Assembly, Fifty-sixth session, Supplement No. 10 (A/56/10)*, chap. IV.E.1.)

²⁰ For a summary of the sources and scope of the right to adequate housing, see the reports of the Special Rapporteur, Miloon Kothari, submitted to the Commission on Human Rights at its fifty-seventh (E/CN.4/2001/51, paras. 13-22) and fifty-ninth (E/CN.4/2003/55, paras. 10-19) sessions. For a summary of the sources and scope of the right to the highest attainable standard of health, see the report of the Special Rapporteur, Paul Hunt, to the Commission at its fifty-ninth session (E/CN.4/2003/58, para. 10-36 and annexes I and II). In the present report “the right to health” and “the right to the highest attainable standard of health” are used as shorthand for the full formulation of the right. As set out in the reports of both Special Rapporteurs, the right to adequate housing and the right to health are closely related to the enjoyment of a number of other human rights and fundamental freedoms contained in the major international human rights treaties.

²¹ E/CN.4/1998/53/Add.2. The Guiding Principles are recognized by States as “an important international framework for the protection of internally displaced persons” (General Assembly resolution A/60/1, para. 132).

²² International Committee of the Red Cross, *Customary International Humanitarian Law*, Jean-Marie Henckaerts and Louise Doswald-Beck (eds.), Cambridge University Press, 2005 (hereafter “ICRC Study”). This study was prepared upon recommendation of the twenty-sixth International Conference of the Red Cross and Red Crescent (December 1995) and is based on an extensive analysis of State practice (e.g. military manuals) and documents expressing *opinio iuris*. The application of these customary standards to the present conflict has been the subject of extensive analysis by civil society groups. See for example Human Rights Watch, *Fatal Strikes: Israel’s Indiscriminate Attacks Against Civilians in Lebanon* (August 2006); Human Rights Watch, *Hezbollah Must End Attacks on Civilians* (August 2006); Amnesty International, *Deliberate destruction or “collateral damage”? Israeli attacks on civilian infrastructure* (August 2006); and Amnesty International, *Under fire: Hizbullah’s attacks on northern Israel* (September 2006).

²³ *Ibid.*, pp. 3-8 (Rule 1), 25-36 (Rules 7-10).

²⁴ *Ibid.*, pp. 25-32 (Rules 7-8).

²⁵ *Ibid.*, pp. 19-24 (Rule 6).

²⁶ Ibid., pp. 32-34 (Rule 9).

²⁷ Ibid., p. 37 (Rule 11).

²⁸ Ibid., pp. 40-43 (Rule 12).

²⁹ Ibid., pp. 43-45 (Rule 13).

³⁰ Ibid., p. 48 (Rule 14).

³¹ Ibid., p. 51 (Rule 15).

³² Ibid., pp. 51-67 (Rules 15-21).

³³ Ibid., pp. 62-65 (Rule 20).

³⁴ Ibid., pp. 337-340 (Rule 97).

³⁵ Ibid., p. 340 (Rule 97).

³⁶ Ibid., pp. 68-76 (Rules 22-24).

³⁷ See also the recommendation contained in para. 107 below.

³⁸ Ibid., pp. 568-603, 607-611 (Rules 156 and 158); see also E/CN.4/2006/53, paras. 33-43.

³⁹ Some of the issues described in the section below are visually depicted in the situation map provided by UNOSAT (annex).

⁴⁰ The total number of 15,500 sorties includes 1,200 transport missions, over 1,300 reconnaissance missions, and 1,000 combat search-and-rescue missions. It is unknown how many of the 15,000 sorties actually involved delivery of ordnance.

⁴¹ At the end of the second week (30 July), IDF said that its artillery batteries had fired more than 25,000 shells into south Lebanon. IDF also said that the army had carried out broad artillery attacks against rocket launching sites, against “squads of Hezbollah terrorists”, and structures and “strongholds” along the border.

⁴² As the Government of Lebanon has stated: “Israel has largely avoided some types of targets: major power plants, water treatment facilities, telephone systems, central government buildings and most factories. The bombing has focused on Shiite areas of southern Lebanon and the Beirut suburbs”. Government of Lebanon, “Setting the stage for long-term reconstruction: The national early recovery process”, Stockholm Conference for Lebanon's Early Recovery, 31 August 2006.

⁴³ ICRC Study, see note 21 above, Rule 20.

⁴⁴ The mission also took note of statements by some Israeli officials that are incompatible with international humanitarian law. For example, Haim Ramon, at the time Israeli Justice Minister, is reported to have said that “in order to prevent casualties among Israeli soldiers battling Hezbollah militants in southern Lebanon, villages should be flattened by the Israeli air force before ground troops moved in” (BBC, 27 July 2006).

⁴⁵ IDF, Intelligence and Terrorism Information Center at the Center for Special Studies (CSS), “The IDF-Hezbollah confrontation (Updated on the morning of Thursday, July 20),” 20 July 2006.

⁴⁶ Robin Wright, “Inside the Mind of Hezbollah”, *The Washington Post*, 16 July 2006, at <http://www.washingtonpost.com>.

⁴⁷ Translation from Arabic provided in Israel Ministry of Foreign Affairs, “IDF warns Lebanese civilians to leave danger zones” (25 July 2006) at <http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Terrorism+from+Lebanon-+Hizbullah/IDF+warns+Lebanese+civilians+to+leave+danger+zones+3-Aug-2006.htm>.

⁴⁸ Different sources provide varying data about the number of buildings and housing units destroyed in the *Dahiye*, as well as on the population of the destroyed and damaged buildings. For details, see note 60 below.

⁴⁹ Information referred to by the Government of Israel named some 400 alleged Hezbollah fighters as being among the total and claimed that an additional 200 of those killed were also fighters.

⁵⁰ See the recommendation in para. 103 (b) below.

⁵¹ The term South Lebanon is used to refer to the three districts of Tyre, Bint Jbeil and Marjayoun.

⁵² These figures are taken from the *Rapid Preliminary Damage Assessment* (p. 6) prepared by the European Commission Joint Research Centre (JRC) and the European Union Satellite Centre (EUSC) with a view to the 31 August 2006 Stockholm Conference on Lebanon’s Early Recovery, <http://www.lebanonundersiege.gov.lb/Documents/rapidpreliminarydamageassessment.pdf>. Buildings include residential buildings, medical facilities, industrial buildings and greenhouses. In Tyre, the only district for which disaggregated data are available, 292 of the 306 destroyed buildings were residential.

⁵³ According to statements by Hezbollah, 74 Hezbollah combatants were killed – in all of Lebanon - in the course of the armed conflict (Amal also announced the death of 17 fighters; the Popular Front for the Liberation of Palestine-General Command (PFLP-GC) announced the deaths of two fighters). IDF, on the other hand, IDP informed the mission that 600 fighters were killed (400 of whom it reports having identified by name). In statements to the media, the IDF Chief of Staff reportedly stated that 650 Hezbollah fighters were killed, adding that this was not a final figure (YnetNews, “Halutz: I don’t need a lawyer”, 20 September 2006

<http://www.ynetnews.com/Ext/CompArticleLayout/CdaArticlePrintPreview/1,2506.L-3306396.00.html>.)

⁵⁴ For international humanitarian law prohibitions on destroying civilian property, including homes, see articles 53 and 147 of the Fourth Geneva Convention and article 52 of Additional Protocol I.

⁵⁵ Lebanon crisis: Service Availability Assessment, Ministry of Health and WHO, 29 August 2006. For international humanitarian law prohibitions on attacking civilian hospitals, see e.g. article 18 of the Fourth Geneva Convention, article 12 of Additional Protocol I and Rule 28 in the ICRC Study.

⁵⁶ During the evening of 23 July, for example, two Lebanese Red Cross (LRC) ambulances carrying six wounded to Tebnine Governmental Hospital were hit by Israeli aircraft in two separate attacks, wounding six LRC volunteers (ICRC press release, 29 August 2006). On 11 August, an LRC ambulance was hit directly by two projectiles, injuring two LRC volunteers; no hostilities were taking place in the vicinity at the time. That night, a convoy of hundreds of cars occupied mostly by civilians fleeing the area of Marjayoun came under fire from Israeli aircraft; one LRC first aid volunteer, Mikhael Jbayieh, was killed in the attack. LRC continued its work, taking six dead and 32 wounded to nearby hospitals (ICRC press release, 12 August 2006). For international humanitarian law prohibitions on attacking medical transports, see e.g. articles 21 and 22 of the Fourth Geneva Convention, article 21 of Additional Protocol I and Rule 29 in the ICRC Study, see note 21 above.

⁵⁷ Common article 3 to the Geneva Convention (preventing “violence to life and person, in particular murder of all kinds” of those placed *hors de combat* by sickness, wounds, detention, or any other cause”). Common article 3 is considered by the International Court of Justice to “constitute a minimum yardstick ... which, in the Court’s opinion, reflects what the Court in 1949 called ‘elementary conditions of humanity’”. *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*. *I.C.J. Reports 1986*, para. 218. See also ICRC Study, note 21 above, p. 312. (“The prohibition on killing civilians and persons *hors de combat* is set forth in numerous military manuals. It is also contained in the legislation of a large number of States. This prohibition has been upheld extensively in national and international case-law. Furthermore, it is supported by official statements and other practice.”)

⁵⁸ See Human Rights Watch, *Fatal Strikes*, pp. 37-38.

⁵⁹ According to Lebanon, Israel destroyed 107 bridges and overpasses and 137 roads over an area of 445,000 m². Government of Lebanon, “Setting the stage...”, see note 42 above, p. 12, available at <http://www.lebanonundersiege.gov.lb/Documents/StockholmConferenceDocument.pdf>.

⁶⁰ ICRC Study, see note 21 above, Rule 8; Additional Protocol I, art. 52 (2). Israel agrees that this definition is “generally accepted”. Israel Ministry of Foreign Affairs, Jerusalem, “Responding to Hizbullah attacks from Lebanon: Issues of proportionality, Legal Background”, 25 July 2006.

⁶¹ However, once a transportation artery has been severed, future attacks on that artery will provide, at the most, severely diminished military advantage. The only area in which a more general degradation of the transportation infrastructure could plausibly have been legitimate is in the area of ground confrontation between Israeli and Hezbollah forces.

⁶² <http://www.macsl.org/reports/Leb%20UXO%20Fact%20Sheet%202023%20September%202006.pdf>. According to a map prepared by UNMACC of the 482 sites, cluster bomb use was concentrated in two bands away from the border area: from southeast of Rashidiyah on the coast (south of Tyre) to the northeast of Tyre; with a second band from southwest of Brashit and south of Tibnin extending northwards through Qabrikha into the Bekka valley to the west of Marjayoun. The only significant uses in the border zone were in the Yarun area south of Bint Jbeil and opposite (west of) the Israeli town of Metula.

⁶³ One of the Rapporteurs visited Tibnine Governmental Hospital. During the conflict, this hospital provided medical services, shelter for 1,800 IDPs, and support (e.g. food) for over 10,000 transiting IDPs. The Rapporteur was informed that, in the last days of the conflict, between 50-100 cluster bomb sub-munitions hit the hospital and fell in the hospital grounds or the immediate vicinity; some exploded, some did not. Two unexploded bomblets hung in trees within the hospital grounds. One exploded within three or four metres of the door to the emergency clinic. A hospital fuel tank was hit (it did not explode) and windows broken. Installed on the roof, the systems for air conditioning and lifts were hit and malfunctioned. More than ten cars, parked within a few metres of the hospital, were hit and burnt, blackening the hospital's wall. The hospital's occupants were sheltering in an underground floor at the relevant times and none was injured. UNMACC has now cleared the hospital and its immediate environs of unexploded ordinances.

⁶⁴ On the question of the adequacy of the provision of maps by Israel, see the conclusions addressed to the Government of Israel below.

⁶⁵ ICRC Study, see note 21 above, p. 340.

⁶⁶ *Ibid.*, pp. 568-603 (Rule 156).

⁶⁷ OCHA, Situation Report - Lebanon response, No. 23, 15 August 2006.

⁶⁸ Jihad al-Bina, the Hezbollah construction arm which has carried out extensive damage assessment on the ground, estimates that 5,000 housing units were completely destroyed in Dhahiya, with 17,000 having endured some level of damage. They further estimate that presently 14,000 families are without homes in Dhahiya, equaling over 60,000 persons. (Based on local demographic realities, the quantification method applies a multiplication factor of 4.7 for family units to arrive at a total population figure. Thus, 14,000 families would approximate 65,800 persons.) *Rapid Preliminary Damage Assessment*, see note 52 above, p. 11, <http://www.lebanonundersiege.gov.lb/Documents/rapidpreliminarydamageassessment.pdf>, refers to 195 residential buildings "collapsed or destroyed" in all of Beirut, of which 144 are located in the cadastral limit Haret Horaik, the most impacted area of the Dahiye (132 of these buildings

had more than 5 floors); and 131 buildings with “visible damage as debris”, of which 113 in Haret Horaik. They estimate the impacted population for all of Beirut as up to 30,000 (p. 12).

⁶⁹ Human Rights Watch, *op. cit.*, p. 32.

⁷⁰ See note 3 above.

⁷¹ For international humanitarian law prohibitions on displacement of civilian populations, see article 49 of the Fourth Geneva Convention, article 52 of Additional Protocol I and article 17 of Additional Protocol II.

⁷² See also general comment No. 4 (1991) and No. 7 (1997) of CESCR in which the Committee states (para. 5) that “Although the practice of forced evictions might appear to occur primarily in heavily populated urban areas, it also takes place in connection with forced population transfers, internal displacement, forced relocations in the context of armed conflict, mass exoduses and refugee movements. In all of these contexts, the right to adequate housing and not to be subjected to forced eviction may be violated through a wide range of acts or omissions attributable to States parties. Even in situations where it may be necessary to impose limitations on such a right, full compliance with article 4 of the Covenant is required so that any limitations imposed must be “determined by law only insofar as this may be compatible with the nature of these (i.e. economic, social and cultural) rights and solely for the purpose of promoting the general welfare in a democratic society””.

⁷³ On the content of adequate housing and living conditions, see CESCR general comment No. 4 (1991), para 8. Also see CESCR general comment No. 15 (2002), para 22. For a discussion on the impact of forced evictions on women and on children, see the report of the Special Rapporteur, Miloon Kothari, submitted to the Commission on Human Rights at its sixtieth session (E/CN.4/2004/48), paras. 41-61.

⁷⁴ See, for example, ICESCR, articles 2(1), 3 and 12, and CESCR general comment No. 14 (2000), para. 12, as well as CRC article 24. It is very difficult to assess some vital dimensions of the conflict’s impact on health because Lebanon does not have an adequate national health information system. It is not known, for example, how many of the reported casualties were severely or lightly wounded.

⁷⁵ Recently completed and sent to the General Assembly for adoption, the Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities (A/AC.265/2007/2, annex II) includes the following preambular paragraph: “(s) Concerned that situations of armed conflict and the occurrence of natural disasters have considerably increased the experience of disability in war stricken and disaster prone countries, as well as having especially devastating consequences for the human rights of persons with disabilities.”

⁷⁶ Additionally, some reported that there was no effective system of safe passage or “humanitarian corridors” in the south. See e.g. Médecins sans frontières, “Humanitarian corridor into south Lebanon is a delusion”, 1 August 2006.

⁷⁷ Ibid. Also see *The Situation of Human Rights of Internally Displaced Persons in the conflict opposing Hizbollah (Lebanon) to the State of Israel*, NDH/ALEF, 1 August 2006, and *Health and Psychological Assistance Commission Report for the Victims of War in South Lebanon*, LRC, 9 August 2006. For further discussion of mental health issues in Lebanon, see para. 88.

⁷⁸ <http://www.lebanonundersiege.gov.lb/english/F/Main/index.asp>.

⁷⁹ Ibid.

⁸⁰ On 25 July 2006, for example, leaflets warned that anyone present in areas from which rockets are being launched would endanger his or her life. Another leaflet dropped on the same day called upon “all citizens south of the Litani river ... to evacuate your villages and move north of the Litani river.” Similar warnings were addressed to the population of South Beirut. See www.mfa.gov.il/MFA/Terrorism.

⁸¹ Guiding Principles on Internal Displacement, see note 20 above, principle 6, restating ICCPR article 12, and customary international humanitarian law (see ICRC Study, note 21 above, pp. 74-76, 457-468 (Rules 24 and 129-131)).

⁸² ICRC Study, see note 21 above, pp. 62-65 (Rule 20). The duty to warn as part of the duty to protect life may also be derived from ICCPR article 6.

⁸³ Human Rights Watch, *op. cit.*, pp. 35-40.

⁸⁴ In relation to maternal health, see CESCR general comment No. 14 (2000), para. 14.

⁸⁵ “On the first day our missiles were focused on shelling military sites only, excluding Israeli settlements and colonies in north occupied Palestine. Yet, the enemy army, unable to confront our warriors, started from the first day targeting towns, villages, civilians, civilian installations and infrastructure.”

⁸⁶ “[O]ur battle is against the military, even though we consider everyone in ‘Israel’ partner in their crime, but so long as there was no need to attack civil targets, we will not.” Speech by Hassan Nasrallah, 16 July 2006, <http://www.shiachat.com/forum/index.php?showtopic=87647&st=25>. The rules of humanitarian law already reflect the requirements of military necessity; there is no “necessity” exception to these rules. The targeting of civilians not directly participating in hostilities is, without exception, a violation of international humanitarian law.

⁸⁷ “[W]ith the Zionists carelessly exceeding the proper limits of engagement, their inability to read current events has pushed them to continue their extensive assaults of South Lebanon and Bakaa, especially the cities of Baalbek and Hermel, and to take the choice of hitting the newly built infrastructure.

“Today we were left with no choice but to deliver on the promise of shelling the city of Haifa. We know the importance and the gravity of this city. Had we aimed missiles at the chemical plants, a major disaster would have struck that region, but we deliberately spared these

plants from our missile-range in the interests of restraint rather than pushing matters into the unknown. To make certain, our weapon is not one of revenge but deterrence, to inject some reason and deliberation back into the heads of the lunatics in the Olmert Government, and rid them of hang-ups of arrogance and tyranny, even idiocy, their specialty.

“Just avoiding such targets does not mean we will continue down this course of response. We may, at any moment, consider it our duty to protect our homeland, people and families and resort to any means possible to provide such protection.

“So long as the enemy practices this level of aggression without hindrance or restraint, we will therefore go to the same level in our defence, relinquishing limits and red lines.” Speech by Hassan Nasrallah, 16 July 2006, *ibid*.

It was also stated: “Fourth, regarding the rockets and the settlements, I would like to confirm that our shelling of the settlements, in the north or beyond Haifa or Tel Aviv, and since the issues are now clearer, is a reaction and not an action. If you attack our cities, villages and capital, we will react. And any time you decide to stop your attacks on our cities, villages and infrastructure, we will not fire rockets on any Israeli settlement or city. Naturally, we would rather, in case of fighting, fight soldier to soldier on the ground and battlefield. We are worthy of this battle and we are its men.”

In a speech at the beginning of the fourth week of the conflict, Nasrallah announced that “the missile shelling of the settlements in north Palestine reaching after Haifa will continue; rather, it will continue with a higher rhythm pertaining to quality and quantity. Yesterday, the Islamic Resistance fired more than 300 rockets into the northern settlements and shelled the settlement of Beit Shan or Beesan and the city of Afoula in the [heart of Israel beyond Haifa] ... using Khaibar [missiles]”. He stressed again, however, that “our shelling of the settlements, in the north or beyond Haifa or Tel Aviv, ... is a reaction and not an action”. Speech by Sayyed Hassan Nasrallah, 7 August 2006, <http://www.islamdigest.net/v61/content/view/1887/0/>). In a televised speech two days later, Nasrallah urged the Arab population of Haifa to flee the city in order to “relieve” him of his remaining hesitations in targeting Haifa (and its non-Arab civilian population). Speech broadcast by Al-Manar TV station, 9 August 2006. Arabic text: www.manartv.com.lb/NewsSite/NewsDetails.aspx?id=1002; English text: www.aimislam.com/forums/index.php?showtopic=457&st=40).

⁸⁸ On reprisals, see ICRC Study, note 21 above, pp. 519-523 (Rules 145-148).

⁸⁹ Reports on the number that landed in urban areas vary from 901 to 972. The differences could be attributed to counting mortars and artillery landing in the border areas (and around Kiryat Shmona) as rockets.

⁹⁰ The 220mm mobile rocket used by Hezbollah against Israeli settlements is of Syrian manufacture or origin with a maximum range of 70 km. These rockets, as well as according to some reports the improved range Katyushas, had been modified to carry thousands of small ball bearings, which spray out over a radius of up to 300 meters when the rocket strikes. Harm to persons is thus maximized. The 220mm mobile rocket would appear to be responsible for the

most deadly single incident, the death of 8 workers at a railway repair shop in Haifa on 16 July 2006. A 220m rocket attack (or the similar 302mm rocket with ball bearings) on an IDF encampment near Kfar Giladi, a kibbutz in the northeastern Israel, is also responsible for the death of all 12 IDF soldiers killed on Israeli territory.

⁹¹ Israel Ministry of Foreign Affairs, 'Behind the Headlines: Israel's counter terrorist campaign' (15 August 2006), online at <http://www.mfa.gov.il/MFA/About+the+Ministry/Behind+the+Headlines/Israels+counter+terrorist+campaign+-+FAQ+18-Jul-2006.htm> (estimating also that more than a million persons were forced to live in shelters).

⁹² The official website of the Israeli Ministry of Foreign Affairs adds that more than a million persons were forced to live in shelters, (<http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Terrorism+from+Lebanon-+Hizbullah/Hizbullah+attack+in+northern+Israel+and+Israels+response+12-Jul-2006.htm>).

⁹³ See CESCR, general comment No. 14 (2000), para. 15.

⁹⁴ Note of 14 August 2006 from Renee Jacqueline Brown, International Department, Magen David Adom. One senior Israeli mental health specialist working for the government reported that approximately 4,000 civilians had been given treatment in hospital for mental health problems. After a few hours, most were discharged. He emphasized the anxiety generated by internal displacement and acknowledged that, although arrangements were well organized, there were some problems of drugs, alcohol, sexual abuse and domestic violence among IDPs. He also emphasized the stress on those living in shelters.

⁹⁵ See Jacob Blaustein Institute for the Advance of Human Rights of the American Jewish Committee, *Israel Under Rocket Attack: A Profile of Displacement and Destruction*, September 2006, p. 12.

⁹⁶ In Kiryat Shmona, the authorities organized temporary evacuation for people to respite from the difficult conditions and fear. However, they had to return few days later in order to allow another group to rotate out for a temporary trip, creating distress and fear for those who were obliged to return. See *ibid.* According to Deputy Israël Hasson, resident of Tivon, near Haifa, during the war, the population was divided in two: those who had the means to go south and those – poor, handicapped, or isolated elderly – were left there without help (*Le Monde*, "Les Israéliens fustigent l' "incurie" du gouvernement", 18 August 2006, <http://www.lemonde.fr/web/article/0,1-0@2-734511,36-804456@51-796602,0.html>).

⁹⁷ The variation included type of medical service and frequency of delivery. Also, some services were not free of charge, such as emergency dental care. Note, too, that in the north a community's primary health clinic remained open if it had a shelter. However, it is not clear that primary health clinics with shelters are equitably distributed across the country and its different population groups, leaving the possibility of discriminatory access to primary health care during the conflict.

⁹⁸ In two cases, patients – including children – were lightly injured.

⁹⁹ Mizra psychiatric hospital had 300 patients. When the conflict began some patients were temporarily discharged. The hospital was hit twice, the second time a hospital building was damaged, although there were no casualties. The hospital – some 220 patients and 130 staff – were evacuated to two hospitals in central Israel. Within three days of the cessation of hostilities, patients and staff returned to Mizra.

¹⁰⁰ Many of these patients found this disruption extremely traumatic. All have now returned to the north. However, some are now hospitalized because their health has deteriorated.

¹⁰¹ “Actions in Time of War”, The National Committee for the Arab Local Authorities in Israel, Nazareth, 18 August 2006.

¹⁰² In relation to non-discriminatory access to health-related services, see CESCR general comment No. 14 (2000), para. 12.

¹⁰³ Jacob Blaustein Institute, op. cit.

¹⁰⁴ Numerous concluding observations of United Nations treaty bodies, e.g. CESCR in 1998 and 2003, CERD in 1998 and CRC, refer to the policy and legislative steps necessary to overcome the discrimination suffered by the Arab minority in Israel. The Israeli Government-commissioned “Or Commission report” of 1993 also makes recommendations (see http://elyon1.court.gov.il/heb/veadot/or/inside_index.htm., summary in English at: <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=335594>). Neither the treaty bodies nor the Or Commission recommendations have been implemented by the State of Israel.

¹⁰⁵ Arab Association for Human Rights, Weekly Review of Human Rights Violations of the Palestinian Arab Minority in Israel No. 283, 14-21 July 2006.

¹⁰⁶ <http://www.lebanonundersiege.gov.lb/english/F/Main/index.asp>. The definition of “refugees” used on this site is not explained, but it appears to cover IDPs as well as those seeking refuge outside Lebanon.

¹⁰⁷ ICRC Study, see note 21 above, pp. 468-472 (Rule 132).

¹⁰⁸ Guiding principle 28; ICCPR article 12 (right to choose one’s place of residence).

¹⁰⁹ ICCPR article 12, paragraph 3.

¹¹⁰ See paragraph 60 and notes 52 and 68 above.

¹¹¹ A report dated 18 September 2005 indicates that a “[t]otal of 500,000 cubic meters of rubble has been removed and cleared from Beirut’s southern suburb, an estimated three quarters of the rubble. The remaining amount of debris, believed to be around 700,000 cubic meters in total, is expected to be cleared within two weeks time.” (*Half a Million Cubic Meters of Rubble Removed from Dahyeh*, posted at <http://www.lebanonundersiege.gov.lb/english/F/eNews/NewsArticle.asp?CNewsID=337>).

¹¹² Hezbollah has promised compensation to families whose housing was affected by the war, up to 12,000 USD for a completely destroyed home, plus USD 2,000 for the purchase of basic household items. Reports indicate that Hezbollah has already paid the promised 12,000 USD to 5,000 families.¹¹² Jihad al-Bina has undertaken an assessment process and is documenting each family's situation for the purposes of compensation and to have families settled in temporary or rental units or other solutions until their homes can be rebuilt.¹¹²

¹¹³ David Schenker, Lebanon: Short and Longer Term Challenges, 14 September 2006, <http://www.lebanonundersiege.gov.lb/english/F/eNews/NewsArticle.asp?CNewsID=324>.

¹¹⁴ See the recommendations in section V.

¹¹⁵ Qatar, Abu Dhabi and the Syrian Arab Republic pledged to rebuild some of the worst affected towns and villages in South Lebanon and Western Governments and international institutions committed \$940 million at the Stockholm Conference.

¹¹⁶ Ibid.

¹¹⁷ Housing And Land Rights Network, Habitat International Coalition, Postconflict Mission to Lebanon.

¹¹⁸ <http://www.mineaction.org/overview.asp?o=540>.

¹¹⁹ UNMACC estimate dated 23 September 2006. <http://www.maccsl.org/reports/Leb%20UXO%20Fact%20Sheet%2023%20September%202006.pdf>.

¹²⁰ The situation regarding the livelihood of the affected populations in particular in the south of the country raises important concerns. According to the *Rapid Preliminary Damage Assessment*, see note 52 above, the armed conflict resulted in the destruction of 545 cultivated fields in South Lebanon, with an overall 10.6 ha of land damaged. Additionally, and possibly more seriously, access to agricultural land is hampered due to the high number of road sections destroyed or damaged in rural areas. The most serious problem for the resumption of agriculture, and thus for the livelihood of returnees, is however represented by the hundreds of thousands of unexploded cluster bomb sub-munitions, a good portion of which lies in fields and olive groves.

¹²¹ Contrary to e.g. ICESCR article 12 (2) (d).

¹²² See WHO news release, 6 September 2006.

¹²³ According to the draft health chapter in the United Nations Common Country Assessment for Lebanon (dated July 2006), a flourishing business-oriented, high technology private sector is “driving the health sector towards favoring large cities, high income communities, at the expense of smaller cities in peripheral areas, and the poorer population groups.” The private market provides about 90 per cent of the health services and “poorer population groups will not be able

to have prompt and timely access to health care”, while recent evidence suggests that “some families are getting impoverished by emerging health costs.”

¹²⁴ For example, see CRC article 24 (2) (c).

¹²⁵ “ Setting the stage...”, see note 42 above, p. 16.

¹²⁶ To replace those that Israel destroyed, the population of South Lebanon urgently needs 5,000–10,000 water tanks for residences. However, the local market has been able to provide only 1,000. Consequently, even with the best efforts, some displaced persons can be rehoused, but cannot access potable water. As an interim measure, relief services, like that of Jihad al-Bina, are transporting water tanks to the needy communities (see Post-Conflict Mission Report, Housing and Land Rights Network, Habitat International Coalition, September 2006, available at www.hlrn.org).

¹²⁷ On mental health and disability and the right to health, see E/CN.4/2005/51.

¹²⁸ Deaths and injuries, destruction of homes and communities, widespread displacement, and exposure to terrifying events, can lead to intense psychological distress, involving fear, a sense of hopelessness and helplessness, great anger and frustration. Other effects of the conflict also risk undermining mental health and psychosocial well being, such as increased poverty and dependency, disruption of community structures, and separation of children from their usual caregivers. Individuals not directly exposed to the violence are also affected through living under fear of attack, concern for family members, hosting displaced families, and viewing the local conflict through the media. See *Mental Health and Psychological Protection and Support for Adults and Children Affected by the Middle East Crisis: Inter-Agency Technical Advice for the Current Emergency*, 9 August 2006.

¹²⁹ For example, in the context of the right to health, see CRC article 24 (2) (c). Relevant international humanitarian provisions include article 55 (1) of Additional Protocol I.

¹³⁰ See, for example, *Environmental Assessment of July 2006 War on Lebanon*, Ministry of Environment, 22 August 2006, and the *Field Situation Reports* of the Oil Spill Operations and Coordination Centre.

¹³¹ Lebanese Government document submitted to the Stockholm Conference.

¹³² The mission notes that this fund is a good example for countries that seek to build up capital to deal with post-conflict and post-disaster work.

¹³³ “35,000 claims from war settled”, *Haaretz*, 23 September 2006, <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=761467&contrassID=2&subContrassID=2>.

¹³⁴ Assessment of the environmental damage caused by the war in the north, Dr. Yeshayahu Brauer, Chief Scientist, Ministry of the Environment, 27 August 2006. The assessment notes other damage such as to asbestos buildings which released asbestos fibres into the air.

¹³⁵ See paras. 61, 75, 77 and 89.

¹³⁶ Relevant health-related programming should be informed by the Inter-Agency Standing Committee Guidance on Mental Health and Psychosocial Support in Emergency Settings (the fourth working draft is due to be finalized in late 2006). Also see the key interventions in the section of the Sphere Project Handbook on mental and social aspects of health, and *Mental Health and Psychological Protection and Support for Adults and Children Affected by the Middle East Crisis: Inter-Agency Technical Advice for the Current Emergency*, 9 August 2006. Programmes should be community-based, respectful of different cultures, and integrated, i.e. they should not focus on a single diagnosis, such as post-traumatic stress disorder. The human rights elements of such programming are explored in the report of the Special Rapporteur on the right to the highest attainable standard of health (E/CN.4/2005/5).

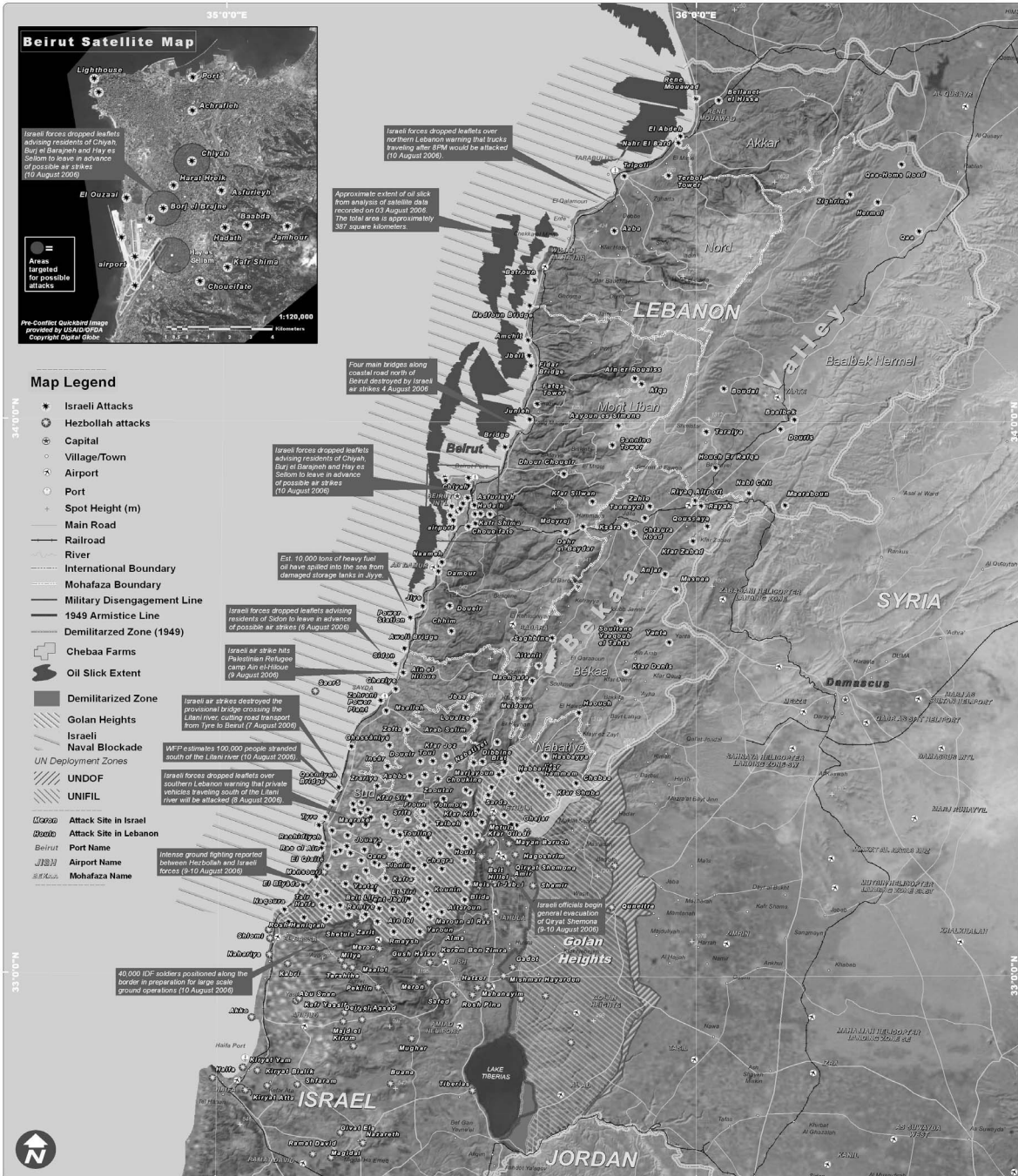
¹³⁷ While legitimate intelligence and security concerns might provide some limits, these cannot justify a refusal to cooperate with such an essential inquiry.

Annex

Situation Map: 12 July - 11 August 2006

Middle East Crisis

v 1.8



This map illustrates a preliminary situation of the reported attacks by Israeli and Hezbollah forces from 12 July to 11 August 2006. Attack locations have been taken exclusively from public media sources. This map was prepared on request for UN OCHA. Locations shown are not to be accurate and do not represent all known attack locations. The oil slick extent was produced by Telepos (Mapbox) with input from DLR (RafEco) based on Eircom ASAR wide swath imagery from August 05, 2006, provided by the International Charter Space and Major Disasters.

The depiction and use of boundaries, geographic names and related data shown here are not warranted to be accurate nor do they imply official endorsement or acceptance by the United Nations. This map was produced by the United Nations Institute for Training and Research (UNITAR) Operational Satellite Applications Programme (UNOSAT). UNOSAT provides satellite imagery and related geographic information to UN humanitarian and development agencies and their implementing partners.

Map Scale: 1:500,000 (for A2 Prints)

0 5 10 20 30 40 Kilometers

Projection: Lambert Conformal Conic
Datum: WGS 1984
CRS Sources: GIST, NASA, NOAA, UN, ICBR, Telepos, Mapbox, RENARD, ISRAID, OCHA
Map created: 11 August 2006

News Sources: Reuters, Radio/TV, BBC, AP, AFP, CNS, IRIN, Daily Star, YNet, Jerusalem Post, Aljazeera, UNHCR daily reports

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