



## The Background to the 2014 Gaza Conflict

Since its inception in 1988, Hamas — a radical Islamist organisation dedicated to the destruction of the State of Israel and the creation of an Islamic state — has launched thousands of attacks designed to terrorise the Israeli people, destroy Israeli property, and thwart any negotiated settlement between Israel and the Palestinians. These Hamas terrorist attacks have been augmented by the acts of other terrorist groups operating out of Gaza, such as Palestinian Islamic Jihad, Al-Aqsa Martyrs Brigades, and other Jihadi organisations.<sup>1</sup> Israel's citizens have suffered numerous suicide bombings by Hamas in the heart of Israeli cities, rocket and mortar fire on Israeli cities, towns and residential communities, and raids on Israeli soil through underground cross-border tunnels. Since 2000, terrorist attacks by Hamas and other terrorist organisations have killed at least 1,265 Israelis, wounded thousands more, and terrorised millions.<sup>2</sup> In recent years, Hamas has expanded its terrorist arsenal with increasingly deadly weapons and a vast network of military tunnels with secret exits in Israeli territory. Since 2009, Hamas has fired more than 8,000 rockets as well as mortar shells into Israel, with increasing range and accuracy, threatening Israel's major cities.<sup>3</sup>

Hamas has forced the Government of Israel to remain constantly vigilant in assessing and responding to the ongoing threat against Israeli citizens. In parallel to its violent campaign against Israel, Hamas has increased its efforts to overthrow the more moderate Palestinian Authority, expand its influence in the West Bank, and promote its *jihadist* ideology in the West Bank and Gaza, while also operating from other countries in the Middle East and Europe.

The threat to Israel reached a critical point in the summer of 2014 when, starting in June, Hamas and other terrorist organisations launched rockets almost daily at Israel. In June and July 2014, Israeli security services uncovered additional cross-border tunnels constructed by Hamas for the purpose of perpetrating terrorist attacks on Israeli soil.<sup>4</sup> Moreover, these events coincided with

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<sup>1</sup> The Palestinian Islamic Jihad ("PIJ") is a fundamentalist organization that developed out of the Islamic Jihad in Egypt, a radical branch of the Muslim Brotherhood, which strives to create an Islamic caliphate through violent struggle ("*jihad*"). The Al-Aqsa Martyrs Brigades is a coalition of armed cells that formed during the second *intifada* (which began in September 2000) and has maintained ties with Fatah, as well as terrorist groups such as Hezbollah in Lebanon. For more details on terrorist organizations operating out of Gaza. See *Terror Data and Trends: Organization Glossary*, Israel Security Agency, available at <http://www.shabak.gov.il/English/EnTerrorData/Organization/Pages/default.aspx>.

<sup>2</sup> *Victims of Palestinian Violence and Terrorism since September 2000*, Israel Ministry of Foreign Affairs, available at (Dec. 25 2014), available at <http://www.mfa.gov.il/mfa/foreignpolicy/terrorism/palestinian/pages/victims%20of%20palestinian%20violence%20and%20terrorism%20sinc.aspx>.

<sup>3</sup> *Rocket Attacks on Israel from the Gaza Strip*, IDF, available at <http://www.idfblog.com/facts-figures/rocket-attacks-toward-israel/>.

<sup>4</sup> Saud Abu Ramadan, *Five Hamas members die as Gaza tunnel collapses*, Haaretz (June 19, 2014), available at <http://www.haaretz.com/news/diplomacy-defense/1.599950>; *IDF Strikes Hamas Tunnel while Terrorists Plan*

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Hamas' efforts to destabilise the West Bank by means of incitement to violence and increased terrorist activity, including the kidnapping and murder of three Israeli teenagers.<sup>5</sup>

While the IDF sought to locate the kidnapped teenagers and to reduce Hamas' military capabilities in the West Bank, Israel tried to avoid escalation in Gaza. In response to Hamas' attacks, Israel engaged in extensive diplomatic efforts and even sought United Nations intervention in an effort to curb escalation, while limiting its military actions to pinpoint strikes in Gaza. However, the Hamas-led attacks from Gaza only intensified.

When Hamas and other terrorist organisations fired over 60 rockets at Israel from Gaza on July 7, Israel was left with no choice but to launch a measured aerial campaign called Operation Protective Edge (hereinafter: "Operation Protective Edge" or "the 2014 Gaza Conflict") focused on neutralising the ongoing and imminent threat of attacks, in order to protect its civilian population. No government would have failed to respond to such an unceasing barrage of attacks on its citizens.

## **A. The Threat Posed by Hamas and Other Terrorist Groups in Gaza**

The threat that Hamas has posed to Israel and to the possibility of reaching a negotiated settlement to the Israeli-Palestinian conflict has been both overt and extreme. Since 1988, the Hamas Charter has called for a single Islamic state between the Mediterranean Sea and the River Jordan, to be established by means of an armed struggle.<sup>6</sup> The Charter proclaims that "[i]nitiatives, and so-called peaceful solutions and international conferences, are in contradiction to the principles of the Islamic Resistance Movement."<sup>7</sup> Indeed, the Hamas Charter not only denies Israel's right to exist, but also espouses a militantly racist worldview, stating that "[t]here is no war going on anywhere, without [the Jews'] finger in it."<sup>8</sup> The Charter, moreover, casts Western nations as neo-imperialists and crusaders, to be treated as the enemy.<sup>9</sup> Although some Hamas members have recently attempted

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Attack, IDF (July 7, 2014), available at <http://www.idfblog.com/blog/2014/07/07/idf-strikes-hamas-tunnel-terrorists-plan-attack/>.

<sup>5</sup> See *infra* note 78.

<sup>6</sup> See The Covenant of the Islamic Resistance Movement, August 18, 1988 (the "Hamas Charter"), arts. 6, 11, available at [http://avalon.law.yale.edu/20th\\_century/hamas.asp](http://avalon.law.yale.edu/20th_century/hamas.asp).

<sup>7</sup> *Id.* art. 13.

<sup>8</sup> *Id.* art. 22.

<sup>9</sup> *Id.* arts. 22, 25, 35.



to downplay Hamas' founding document, the organisation's leaders continue to embrace its hatred of Israel, Jews, and the West.<sup>10</sup>

Since its establishment, Hamas has consistently incited the murder of innocent Israeli civilians. Hamas wages this incitement campaign through inflammatory speeches by spokesmen and religious leaders, on official Hamas television channels, via social media, and in schools and summer camps, among other places.<sup>11</sup> In the summer of 2014, Hamas repeatedly called for the murder of Israeli civilians — for example, a Hamas spokesperson declared that “Anyone who has a knife, a club, a weapon, or a car, yet does not use it to run over a Jew or a settler, and does not use it to kill dozens of Zionists, does not belong to Palestine.”<sup>12</sup>

Throughout its history and to the present, Hamas has practiced what it preaches. From its very inception, Hamas has orchestrated terrorist attacks against Israel. Beginning in the 1990s, suicide bombings became its hallmark. Hamas has carried out more than 90 such bombings, targeting malls, cafés, discotheques, buses, and other civilian locales in a concerted effort to kill as many civilians as possible and to paralyze civilian life throughout Israel.<sup>13</sup>

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<sup>10</sup> For example, in a September 2014 speech, Mahmoud al-Zahar, a senior Hamas official, spouted the following virulently anti-Semitic rhetoric: “The only reason Hitler killed them [the Jews] was because they had betrayed their country.” In a speech later that month before Hamas-affiliated security forces, al-Zahar called the Jews “the historical center of evil hated by the entire world.” See also *Following the Fatah-Hamas reconciliation, Hamas may maneuver between adherence to its fundamental positions and its desire to benefit from the agreement which may serve its internal political and media purposes*, The Meir Amit Intelligence and Terrorism Information Center (“ITIC”) ¶ 3 (Apr. 27, 2014), available at [http://www.terrorism-info.org.il/Data/articles/Art\\_20641/E\\_063\\_14\\_1011823983.pdf](http://www.terrorism-info.org.il/Data/articles/Art_20641/E_063_14_1011823983.pdf); see also Yiftah Curriel, *The Hamas charter is alive and kicking – and Israeli civilians are dying*, The Guardian (Nov. 20, 2014), available at <http://www.theguardian.com/commentisfree/2014/nov/20/hamas-charter-israeli-civilians-dying-ahmed-yousef>; *Jews are a Cancerous Lump*, Official Palestinian Authority TV (Apr. 20, 2007), available at Palestinian Media Watch, <http://palwatch.org/main.aspx?fi=760>.

<sup>11</sup> For example, on July 10, Hamas-run Al-Aqsa TV broadcasted a music video with the lyrics “Attack! Carry out bombings! Shock them! Annihilate all the Zionists!...Rock Israel's security, and expose it to flames and volcanoes...banish all the Zionists!” set to images of militants carrying rockets through tunnels, militants displaying rockets in preparation for launch, rockets being fired, and Israeli civilians running for shelter. See *Video Clip: Hamas TV Song in Hebrew: Annihilate all the Zionists, Exterminate the Cockroaches' Nest*, MEMRI, available at <http://www.memri.org/clip/en/0/0/0/0/0/4341.htm>. For additional videos of Hamas militants inciting violence and threatening the Israeli public during Operation Projective Edge as well as during Operation Pillar of Defense, see Palestinian Media Watch at [http://www.palwatch.org/main.aspx?fi=157&doc\\_id=12029](http://www.palwatch.org/main.aspx?fi=157&doc_id=12029); [http://www.palwatch.org/main.aspx?fi=157&doc\\_id=11970](http://www.palwatch.org/main.aspx?fi=157&doc_id=11970); [http://www.palwatch.org/main.aspx?fi=157&doc\\_id=809](http://www.palwatch.org/main.aspx?fi=157&doc_id=809). See also *This year, as in years past, summer camps in the Gaza Strip were exploited by Hamas for radical Islamic ideological indoctrination and semi-military training*, ITIC (July 7, 2014), available at <http://www.terrorism-info.org.il/en/article/20664>.

<sup>12</sup> *Hamas Spokesman Fawzi Barhoum Calls to Carry Out Terror Attacks in Israel and the West Bank* (Hamas-run Al Aqsa TV report), Middle East Media Research Institute (“MEMRI”) (July 30, 2014), available at [http://www.memri.org/clip\\_transcript/en/4408.htm](http://www.memri.org/clip_transcript/en/4408.htm).

<sup>13</sup> See *Spotlight on Hamas – Ideology and Involvement in Terror*, Israel Security Agency, available at <http://www.shabak.gov.il/ENGLISH/ENTERRORDATA/REVIEWS/Pages/Hamas%E2%80%93sum.aspx> (noting

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Hamas has collaborated with and received support from other terrorist groups. In Gaza, for example, Hamas often coordinates its military activity with other radical *jihadi* organisations, including the Palestinian Islamic Jihad, a group whose leaders have joined Gazan delegations in ceasefire negotiations in Cairo. Hamas also maintains close ties with Hezbollah and state sponsors of terrorism such as Iran and Syria. In this vein, Hezbollah's Secretary General has remarked that Iran and Syria, along with his organisation in Lebanon, have over many decades provided the "Palestinian resistance" with money, weapons, and other forms of "unconditional support."<sup>14</sup> Indeed, in the past year, Hamas and Iran have strengthened their relationship. To that end, a Hamas delegation recently arrived in Iran for talks.<sup>15</sup> Moreover, an Iranian official boasted that many of Hamas' weapons originate in Iran,<sup>16</sup> while another official affirmed that Iranian technology has enabled Hamas to manufacture and launch rockets of its own.<sup>17</sup> Until the outbreak of the recent civil war in Syria, Hamas maintained close connections with the Assad regime there.<sup>18</sup> Furthermore, Hamas has forged links in Sinai with Ansar Beit al-Maqdis ("ABM"), which recently proclaimed itself a branch of the Islamic State ("ISIS")<sup>19</sup> and whose members Egyptian prosecutors have charged with terrorism.<sup>20</sup>

These actions, as well as Hamas' attacks on Israeli and Palestinian civilians, have led the United States,<sup>21</sup> the European Union,<sup>22</sup> Canada,<sup>23</sup> Australia,<sup>24</sup> New Zealand,<sup>25</sup> Egypt<sup>26</sup> and Japan<sup>27</sup> to

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that Hamas has been responsible for 59% of suicide attacks carried out against Israeli targets). *See also Timeline: The evolution of Hamas*, CNN (Dec. 30, 2008), available at <http://edition.cnn.com/2008/WORLD/meast/12/30/hamas.profile/>.

<sup>14</sup> *Iranian support for the Palestinian terrorist organizations*, ITIC, at 8-9 (Jan. 20 2013), available at [http://www.terrorism-info.org.il/Data/articles/Art\\_20459/E\\_267\\_12\\_1055464410.pdf](http://www.terrorism-info.org.il/Data/articles/Art_20459/E_267_12_1055464410.pdf).

<sup>15</sup> Harriet Sherwood, *Hamas and Iran rebuild ties three years after falling out over Syria*, *The Guardian* (Jan. 9, 2014), available at <http://www.theguardian.com/world/2014/jan/09/hamas-iran-rebuild-ties-falling-out-syria>.

<sup>16</sup> *See Iranian Reactions To The War In Gaza: Israel's Destruction Imminent; Israel Attacks Due To Arab World's Silence, We Have Supplied Gaza Resistance With Drones And Fajr 5 Missiles*, MEMRI (July 20, 2014).

<sup>17</sup> *See Iran supplies Palestinians with rocket technology: Ex-IRGC commander*, *Alalam* (Aug. 5, 2014), available at <http://en.alalam.ir/news/1620231>.

<sup>18</sup> *See J. M. Sharp*, Cong. Research Serv., RL33487, *Syria: Issues for the 112th Congress and Background on U.S. Sanctions*, at 12 (2011), available at <http://fpc.state.gov/documents/organization/162748.pdf>.

<sup>19</sup> Ahmed Eleiba, *Its War in Sinai*, *Al-Ahram* (Oct. 30, 2014), available at <http://weekly.ahram.org.eg/News/7616/17/It%E2%80%99s-war-in-Sinai.aspx>.

<sup>20</sup> El-Sayed Gamal El-Din, *200 suspected Ansar Beit Al-Maqdis members charged with terror offences*, *Al-Ahram*, (May 10, 2014), available at <http://english.ahram.org.eg/NewsContent/1/64/100903/Egypt/Politics/-/suspected-Ansar-Beit-AlMaqdis-members-charged-wit.aspx>.

<sup>21</sup> United States Department of State, *List of Foreign Terrorist Organizations*, available at <http://www.state.gov/j/ct/rls/other/des/123085.htm>.

<sup>22</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2012/765/CFSP, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013D0395&from=EN>.

<sup>23</sup> *See Government of Canada, Dep't of Public Safety Canada, Currently Listed Terrorist Entities*, available at <http://www.publicsafety.gc.ca/cnt/ntnl-scrtr/cntr-trrrsm/lstd-ntts-crrnt-lstd-ntts-eng.aspx>.

<sup>24</sup> *See Australian Government, Australian National Security, Listed Terrorist organizations, Hamas's Izz al-Din al-Qassam Brigades*, available at <http://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/HamassIzzal-Dinal-QassamBrigades.aspx>.



officially designate Hamas or its military wing as a terrorist organisation. In addition, Jordan is one of many countries to officially ban Hamas operations.<sup>28</sup>

Hamas' implacable radicalism underscores the dangers the organisation poses. Much like ISIS and al-Qaeda, Hamas seeks to impose an extreme version of Sharia law. In the Gaza Strip, Hamas has oppressed women,<sup>29</sup> tried to ban public displays of Christian symbols and religious practices,<sup>30</sup> and called for the execution of homosexuals.<sup>31</sup> Hamas has also harassed journalists,<sup>32</sup> persecuted political opponents (including through torture and summary executions),<sup>33</sup> and has extensively used Palestinian civilians in Gaza to shield its military assets and infrastructure from attack.

Hamas' activities are not confined merely to Gaza and the West Bank. Hamas plans terrorist attacks out of Turkey and Qatar and has close contacts with the leadership of those countries.<sup>34</sup>

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<sup>25</sup> See New Zealand Police, Designated terrorist entities, available at <http://www.police.govt.nz/service/counterterrorism/designated-terrorists.html>.

<sup>26</sup> See Update: Egyptian court bans Hamas' armed wing, lists as terrorist organization, Egypt Independent (Jan. 31, 2015), available at <http://www.egyptindependent.com/news/update-egyptian-court-bans-hamas-armed-wing-lists-terrorist-organisation>.

<sup>27</sup> The designation was made in accordance with Japan's *Foreign Exchange and Foreign Trade Act* (Act No. 228 of December 1, 1949; Final revision: Act No. 102 of October 21, 2005), available at <http://www.mofa.go.jp/announce/announce/2002/7/0705.html> and <http://www.mofa.go.jp/announce/press/2003/9/0930.html>.

<sup>28</sup> See, e.g., David Hirst, *Jordan curbs Hamas*, *The Guardian* (Nov. 22, 1999), available at <http://www.theguardian.com/world/1999/nov/22/israel>.

<sup>29</sup> See United States Department of State, *2013 Human Rights Report: Israel and the Occupied Territories* at 80-81, available at <http://www.state.gov/documents/organization/220568.pdf>; see also Diaa Hadid, *Hamas tries to detain woman walking with man*, *The Guardian* (July 8, 2009), available at <http://www.theguardian.com/world/feedarticle/8597375?FORM=ZZNR8>.

<sup>30</sup> See United States Department of State, *2013 International Religious Freedom Report: Israel and the Occupied Territories* at 32-33, available at <http://www.state.gov/documents/organization/222505.pdf>.

<sup>31</sup> *Seven Years Later: Gaza's Reality Under Hamas*, IDF (Jan. 25, 2013), available at <http://www.idfblog.com/hamas/2013/01/25/seven-years-later-gazas-reality-under-hamas/>; Human Rights Watch, *World Report 2011: Israel / Occupied Palestinian Territories*, available at <http://www.hrw.org/world-report-2011/israel-occupied-palestinian-territories>.

<sup>32</sup> See, e.g. Foreign Press Association Statement 2014 (Aug. 15, 2014), available at <http://www.fpa.org.il/?categoryId=73840>; Joshua Levitt, *Journalist Describes Interrogation at Hamas Headquarters Next to Emergency Room at Gaza's Al Shifa Hospital*, *The Algemeiner* (July 24, 2014), available at <http://www.algemeiner.com/2014/07/24/french-journalist-describes-interrogation-at-hamas-headquarters-next-to-emergency-room-at-gazas-al-shifa-hospital/>; Alan A., *Hamas Expel Russia Today's Harry Fear from Gaza for Tweeting about Hamas Rocket Fire from Civilian Area*, *Harry's Place* (July 30, 2014), available at: <http://hurryupharry.org/2014/07/30/hamas-expel-russia-todays-harry-fear-from-gaza-for-tweeting-about-hamas-rocket-fire-from-civilian-area/>.

<sup>33</sup> *Gaza: Hamas must end Summary Executions as 'Informers' Face Firing Squad*, Amnesty International (Aug. 22, 2014), available at <http://www.amnesty.org/en/news/hamas-must-end-summary-executions-informers-face-firing-squad-2014-08-22>; *Hamas Kills 21 Suspected Informers*, *The Guardian* (Aug. 22, 2014), available at <http://www.theguardian.com/world/2014/aug/22/hamas-executes-suspected-informers-gaza>.

<sup>34</sup> For years, Qatar has openly financed Hamas. See e.g., *Remarks of Under-Secretary for Terrorism and Financial Intelligence David Cohen before the Center for a New American Security on "Confronting New Threats in Terrorist*

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Moreover, from its headquarters in Qatar, Hamas directs a large-scale network that spans the European continent. As fronts for its operations in Europe, Hamas uses a variety of non-governmental organisations, including the European Campaign to End the Siege on Gaza (ECESG), the Palestinian Return Centre (PRC), and the Council for European-Palestinian Relations (CEPR). These organisations raise millions of Euros for Hamas terrorist activities and serve as platforms to radicalise students and recruit operatives. Hamas increasingly views Europe as a crucial arena for its *jihadist* movement.<sup>35</sup>

## B. The Ongoing Armed Conflict with Hamas and Other Terrorist Groups

For decades, Hamas and other terrorist organisations in Gaza have carried out terrorist attacks against Israel, seeking not only to harm Israeli citizens but also to foil the Israeli-Palestinian peace process. The intensity of these attacks and the exchange of hostilities with Israel that they have provoked confirm the existence of an ongoing armed conflict between Israel and these terrorist groups. Israel's armed conflict with Hamas and other Palestinian terrorist organisations started in the fall of 2000 with a massive outbreak of terrorist violence, which the Palestinians call the *Al Aqsa Intifada* ("uprising").<sup>36</sup> During this period, Hamas intensified its suicide bombings of civilian targets. The targets included, for example, a nightclub in Tel Aviv, killing 21 in June 2001, and a Passover Seder (festive holiday feast) at a hotel in Netanya, killing 30 in March 2002.<sup>37</sup> Between 2000 and 2008, Hamas suicide bombings killed 457 Israelis and wounded 3,008.<sup>38</sup>

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*Financing*," U.S. Department of the Treasury (March 4, 2014), available at <http://www.treasury.gov/press-center/press-releases/pages/jl2308.aspx>; David Andrew Weinberg, *Qatar and Terror Finance Part I: Negligence*, Foundation for Defence of Democracies (Dec. 10, 2014), available at <http://defenddemocracy.org/media-hit/qatar-and-terror-finance-part-1>; *Return of Palestinian terrorist operatives released in the Gilad Shalit prisoner exchange deal to terrorist activities*, ITIC (June 24, 2014) available at [http://www.terrorism-info.org.il/Data/articles/Art\\_20662/E\\_100\\_14\\_63710732.pdf](http://www.terrorism-info.org.il/Data/articles/Art_20662/E_100_14_63710732.pdf).

<sup>35</sup> See Chaim Levinson, *Defense Minister Ya'alon outlaws NGO representing Hamas in Europe*, Haaretz (Dec. 31, 2013), available at <http://www.haaretz.com/news/diplomacy-defense/.premium-1.566342>.

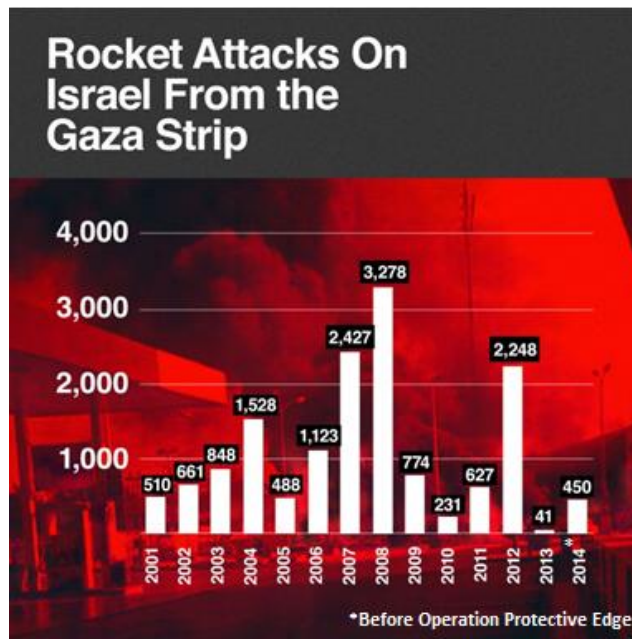
<sup>36</sup> See *Sharm el-Sheikh Fact-Finding Committee-First Statement of the Government of Israel* (Dec. 28, 2000), available at <http://mfa.gov.il/MFA/MFA-Archive/2000/Pages/Sharm%20el-Sheikh%20Fact-Finding%20Committee%20-%20First%20Sta.aspx>.

<sup>37</sup> *Spotlight on Hamas – Ideology and Involvement in Terror*, Israel Security Agency (Jan. 15, 2009), available at <http://www.shabak.gov.il/SiteCollectionImages/%D7%A1%D7%A7%D7%99%D7%A8%D7%95%D7%AA%20%D7%95%D7%A4%D7%A8%D7%A1%D7%95%D7%9E%D7%99%D7%9D/terror-portal/docs/english/hamas-sum-en.pdf>; *Analysis: Palestinian suicide attacks*, BBC News (Jan. 29, 2007), available at [http://news.bbc.co.uk/2/hi/middle\\_east/3256858.stm](http://news.bbc.co.uk/2/hi/middle_east/3256858.stm); *Terrorist Attack against the Park Hotel in Netanya*, Israel Security Agency (2002), available at <http://www.shabak.gov.il/English/History/Affairs/Pages/theParkHotelinNetanya.aspx>; Jamal Halaby, *Bomber went*

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While the armed conflict with Hamas and other terrorist groups operating out of Gaza has varied in intensity over the years, between 2001 and the outbreak of the 2014 conflict, Hamas and other terrorist organisations fired over 15,200 rockets and mortars at Israel, mostly at civilian objects.<sup>39</sup> These rocket attacks have killed and maimed civilians, caused extensive property damage, and inflicted widespread psychological trauma. Studies show that large percentages of Israeli citizens in the range of Hamas fire suffer from long-term symptoms of post-traumatic stress disorder and other impairments to personal, social, and occupational functioning, including intense anxiety, flashbacks, feelings of powerlessness, and hypervigilance.<sup>40</sup>



Between 2001 and the start of Operation Protective Edge in the summer of 2014, more than 15,200 rockets and mortars, an average of over three attacks every single day, targeted Israel. (Source: IDF)

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to *West Bank for a better life*, The Guardian (June 4, 2001), available at

<http://www.theguardian.com/world/2001/jun/04/israel1>.

<sup>38</sup> See *Review of Hamas: Ideology and Involvement in Terror*, Israel Security Agency (Jan. 15, 2009), available at <http://www.shabak.gov.il/SiteCollectionImages/%D7%A1%D7%A7%D7%99%D7%A8%D7%95%D7%AA%20%D7%95%D7%A4%D7%A8%D7%A1%D7%95%D7%9E%D7%99%D7%9D/hamas-summary-15-1-09.pdf> (in Hebrew).

<sup>39</sup> See *Rocket Attacks on Israel from Gaza*, IDF, *supra* note 3.

<sup>40</sup> See, e.g., *Analysis: Professor Danny Brom on the psychological impact of rocket fire on Israeli civilians*, Britain Israel Communications & Research Centre (July 30, 2014), available at <http://www.bicom.org.uk/analysis-article/21777/>; Irwin J. Mansdorf, *Unseen Scars of War: Psychological Consequences of the Hamas Attacks on the Israeli Civilian Population*, Jerusalem Center for Public Affairs (July 20, 2014), available at <http://jcpa.org/article/unseen-scars-of-war-psychological-consequences/>; C.C. Henrich & G. Shahar, *Effects of Exposure to Rocket Attacks on Adolescent Distress and Violence: A 4-Year Longitudinal Study*, J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY (Mar. 25, 2013), available at <http://dx.doi.org/10.1016/j.jaac.2013.02.016>; Eli Ashkenazi & Mijal Grinberg, *Study: Most Sderot kids exhibit post-traumatic stress symptoms*, Haaretz (Jan. 17, 2008), available at <http://www.haaretz.com/news/study-most-sderot-kids-exhibit-post-traumatic-stress-symptoms-1.237438>.



Above: Children taking shelter in Moshav Gia, a small town in the centre of Israel (photo by Shiri Levi)

Despite ongoing attacks and a fervent debate within Israeli society, in August 2005 Israel unilaterally withdrew from the Gaza Strip, completely removing all settlements and military presence there. Since August 2005, Israel has not exercised effective control of the Gaza Strip,<sup>41</sup> and for the past eight years Hamas has acted in Gaza as an embedded, de-facto authority, controlling most aspects of life in the Gaza Strip. This includes control of the local economy, social services, education, police and other security forces, as well as the Gaza side of land crossings with Israel and Egypt.<sup>42</sup>

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<sup>41</sup> This fact has even been acknowledged by Hamas senior officials themselves. For example, on September, 18, 2012, Hamas senior official Mahmoud Al-Zahar declared that “Gaza is free of occupation and contiguity is easier as visitors from all over the world visited the coastal enclave.” *Zahhar: Gaza more secure than West Bank*, Ma’an News Agency (Sept. 18, 2012), available at <http://www.maannews.net/eng/Print.aspx?ID=520228>.

<sup>42</sup> Indeed, Israel would not be able to exercise governmental functions in the Gaza Strip without a massive military campaign to regain such control. Perhaps the clearest indication of Israel’s inability to exercise effective control over Gaza is Hamas’ military capacities, including its ongoing military operations against Israel and continuous military buildup. As seen during the 2014 Conflict, Israel was required to exert significant military efforts in order to reach and neutralise the openings of cross-border tunnels at the outskirts of the Gaza Strip. The conclusion that Israel no longer maintains effective control over the Gaza Strip, and thus cannot be considered as occupying the Gaza Strip, is supported by leading international law scholars. See Adam Roberts, *The Termination of Military Occupants, in Expert Meeting: Occupation and Other Forms of Administration of Foreign Territory* 48, International Committee of the Red Cross (Tristan Ferraro ed., 2012); Eyal Benvenisti, *THE INTERNATIONAL LAW OF OCCUPATION* 211-212 (2d ed. 2012); Yuval Shany, *Faraway, So Close: The Legal Status of Gaza after Israel’s Disengagement* 8 Y. B. INT’L. HUMANITARIAN L. 369 (2005). The Israeli High Court of Justice and the Turkel Commission have also concluded that Israel does not exercise effective control and thus does not occupy the Gaza

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Israel's strategic decision to withdraw from Gaza was made with full recognition of the inherent risk related to the removal of security forces from Gaza. Yet despite this demonstration of good-faith commitment to peace, Hamas attacks only increased and intensified following the Israeli 2005 withdrawal. In 2006, Hamas and other terrorist groups fired over 1,100 rockets at Israel from the Gaza Strip, more than double the total from 2005.<sup>43</sup> Also in 2006, Hamas terrorists crossed Gaza's southern border through a secret tunnel and attacked an army post on Israeli soil, killing two IDF soldiers and abducting a third.<sup>44</sup>

Following Hamas' electoral victory in 2006, the international community offered the organisation an opportunity to assume the role of a responsible political actor. The Quartet on the Middle East (United States, Russia, United Nations and the European Union) called for Hamas to commit to nonviolence, recognise Israel, and accept previous agreements.<sup>45</sup> The United Nations Security Council endorsed these principles.<sup>46</sup> Hamas, however, rejected them.<sup>47</sup>

In June 2007 Hamas militants launched a violent campaign to rid Gaza of political opponents, particularly those associated with the more moderate PLO-affiliated Fatah faction (in one instance throwing an officer of the Palestinian Presidential Guard off the top of Gaza's tallest building).<sup>48</sup> Since 2007, Hamas has controlled Gaza not through a democratic process, but through continuing repression of the Palestinian people, using tactics that contravene the most basic principles of international human rights law: Hamas has restricted freedom of the press, conditioned humanitarian aid on political support, and even tortured and summarily executed Palestinian dissidents.<sup>49</sup> This repression and disregard for human rights is consistent with Hamas' systematic exploitation of Gazan

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Strip. See *Jaber al-Bassiouni Ahmad et al. v. The Prime Minister and the Minister of Defense*, H CJ 9132/07 ¶ 12 (2008) available at [http://elyon1.court.gov.il/Files\\_ENG/07/320/091/n25/07091320.n25.pdf](http://elyon1.court.gov.il/Files_ENG/07/320/091/n25/07091320.n25.pdf); The Turkel Commission, Report – Part One, January 2010, p. 50-53 available at [www.turkel-committee.gov.il/files/wordocs/8808report-eng.pdf](http://www.turkel-committee.gov.il/files/wordocs/8808report-eng.pdf).

<sup>43</sup> *Rocket Threat on Israel from Gaza*, IDF, *supra* note 3.

<sup>44</sup> *Two soldiers killed, one missing in Kerem Shalom terror attack*, Israel Ministry of Foreign Affairs (June 25, 2006), available at

<http://www.mfa.gov.il/mfa/pressroom/2006/pages/two%20soldiers%20killed%20one%20missing%20in%20kerem%20shalom%20terror%20attack%2025-jun-2006.aspx>.

<sup>45</sup> J.M. Shart & C.M. Blanchard, Cong. Research Serv., RS22370, *U.S. Foreign Aid to the Palestinians*, at 1 (June 27, 2006), available at <http://fpc.state.gov/documents/organization/68794.pdf>.

<sup>46</sup> United Nations Security Council Resolution 1850 (adopted Dec. 16, 2008), available at <http://unispal.un.org/UNISPAL.NSF/0/7F7430A137000C4E85257523004CCADF>.

<sup>47</sup> See, e.g., *Hamas won't recognize Israel, accept Quartet terms*, Ma'an News Agency (updated May 7, 2014), available at <http://www.maannews.net/eng/ViewDetails.aspx?ID=694995>.

<sup>48</sup> See *Palestinian Gunmen Target Haniyeh's Home in Gaza*, Associated Press (June 10, 2007), available at <http://www.haaretz.com/news/palestinian-gunmen-target-haniyeh-s-home-in-gaza-1.222703>; see also Conal Urquart et al., *Hamas Takes Control of Gaza*, The Guardian (June 15, 2007), available at <http://www.theguardian.com/world/2007/jun/15/israel4>.

<sup>49</sup> For a discussion of Hamas' suppression of political opposition and the media, see United States Department of State, *2013 Human Rights Report: Israel and the Occupied Territories*, *supra* note 29.



civilians and civilian property to shield its military objectives from attacks. Following Hamas' takeover of the Gaza Strip (where the IDF no longer maintained a presence), Hamas increased the frequency and intensity of rocket and mortar attacks on Israel, and developed its military infrastructure and capabilities. In 2008 alone, Hamas and other terrorist groups in Gaza fired more than 3,000 rockets and mortar shells at Israel.<sup>50</sup> By the end of that year Hamas' rocket fire reached some of Israel's largest cities, including Ashkelon (with a population of over 120,000) and Ashdod (with a population of over 215,000), as well as Israeli strategic installations, such as key electricity and gas storage facilities. Confronted with daily attacks on their homes, schools, kindergartens, shops, clinics, factories, and other civilian infrastructure, Israeli civilians were forced to flee to bomb shelters, often several times a day, and lived in constant fear of the next rocket attack.

When extensive diplomatic efforts and anti-smuggling operations failed to stop the barrage of rockets, Israel, as a last resort, launched air and later ground operations against Hamas in December 2008 and January 2009 ("Operation Cast Lead").<sup>51</sup> In the midst of this operation, in order to interdict the illicit smuggling of weapons into Gaza, Israel imposed, in accordance with customary international law, a maritime blockade, which a UN Secretary-General's Panel of Inquiry affirmed as a "legitimate security measure in order to prevent weapons from entering Gaza by sea."<sup>52</sup> While maintaining a ban on importation of ammunition to the Gaza Strip and requiring permits for importation of certain dual-use materials, since 2010 Israel has allowed entry of all civilian goods (which can enter through Gaza's border with Egypt as well) and has facilitated the entry of humanitarian aid to Gaza via land crossings.<sup>53</sup>

Following Operation Cast Lead, Israel experienced three years of reduced attacks, but Hamas and other terrorist organisations in Gaza still continued to fire rockets and mortars at Israeli civilian sites. For instance, in the fall of 2010, just as direct negotiations between the Israelis and Palestinians were resuming, Hamas launched a series of attacks that included rocket and mortar fire towards Israel and drive-by shootings at Israeli civilians in the West Bank.<sup>54</sup> In a particularly

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<sup>50</sup> *Summary of rocket fire and mortar shelling in 2008*, ITIC (Jan. 1. 2009), available at [http://www.terrorism-info.org.il/data/pdf/PDF\\_19045\\_2.pdf](http://www.terrorism-info.org.il/data/pdf/PDF_19045_2.pdf).

<sup>51</sup> See generally *The Operation in Gaza - Factual and Legal Aspects*, Israel Ministry of Foreign Affairs (July 29, 2009), available at [http://www.mfa.gov.il/mfa/foreignpolicy/terrorism/palestinian/pages/operation\\_in\\_gaza-factual\\_and\\_legal\\_aspects.aspx](http://www.mfa.gov.il/mfa/foreignpolicy/terrorism/palestinian/pages/operation_in_gaza-factual_and_legal_aspects.aspx).

<sup>52</sup> Sir Geoffrey Palmer et al., *Report of the Secretary-General's Panel of Inquiry on the 31 May 2010 Flotilla Incident*, at 4, United Nations (Sept. 2011), available at [http://www.un.org/News/dh/infocus/middle\\_east/Gaza\\_Flotilla\\_Panel\\_Report.pdf](http://www.un.org/News/dh/infocus/middle_east/Gaza_Flotilla_Panel_Report.pdf).

<sup>53</sup> *The Civil Policy Towards the Gaza Strip 2012-2013*, Coordinator of Government Activities in the Territories, Israel Ministry of Defense (Sept. 2013), available at: [http://www.cogat.idf.il/Sip\\_Storage/FILES/7/4207.pdf](http://www.cogat.idf.il/Sip_Storage/FILES/7/4207.pdf); *New Government policy brings more goods to Gaza*, Israel Ministry of Foreign Affairs (Jan. 15, 2012), available at [http://www.mfa.gov.il/mfa/foreignpolicy/peace/humanitarian/pages/new\\_government\\_policy\\_brings\\_more\\_goods\\_to\\_gaza\\_june\\_2010.aspx](http://www.mfa.gov.il/mfa/foreignpolicy/peace/humanitarian/pages/new_government_policy_brings_more_goods_to_gaza_june_2010.aspx).

<sup>54</sup> See, e.g., Janine Zacharia, *Hamas retains deadly reach in West Bank*, Washington Post Foreign Service (Sept. 4, 2010), available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/09/03/AR2010090305869.html>.

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reprehensible strike in 2011, an advanced laser-guided Kornet missile from the Gaza Strip hit a yellow school bus near Kibbutz Sa'ad in southern Israel, killing a 16-year-old boy.<sup>55</sup>

In 2012, Hamas and other terrorist organisations further escalated their rocket and mortar attacks on Israel.<sup>56</sup> While in 2008 Hamas and other terrorist groups possessed approximately 1,000 rockets and mortars in the Gaza Strip, by November 2012 they had stockpiled over 7,000 rockets and mortars, including 2,000 long-range missiles with 25- to 75-km range capabilities.<sup>57</sup> In the twelve months leading up to November 2012, Hamas and other terrorist organisations in Gaza fired approximately 900 rockets at Israel. Then, in a particularly intense and violent four-day period in November 2012, Hamas and other terrorist organisations in Gaza fired 120 rockets at Israel. To protect Israeli citizens from this bombardment, the IDF initiated Operation Pillar of Defense on November 14, 2012.<sup>58</sup> During the eight-day operation, as the IDF sought to reduce the arsenals and military capabilities of Hamas and other terrorist organisations operating from Gaza, these groups continued their constant attacks, firing approximately 1,500 rockets and mortars at Israel, killing five Israeli civilians and injuring 240.<sup>59</sup> Operation Pillar of Defense ended on November 21, 2012, in a ceasefire and understandings brokered by the United States and Egypt.<sup>60</sup>

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For background on the negotiations, see *The resumption of direct talks between Israel and the Palestinians*, Israel Ministry of Foreign Affairs (Sept. 2, 2010), available at [http://mfa.gov.il/MFA/AboutIsrael/History/Pages/Special update Resumption talks Israel Palestinians 2-Sep-2010.aspx](http://mfa.gov.il/MFA/AboutIsrael/History/Pages/Special_update_Resumption_talks_Israel_Palestinians_2-Sep-2010.aspx).

<sup>55</sup> *Israeli boy Daniel Viflic dies after rocket hits bus*, BBC (Apr. 18, 2011), available at <http://www.bbc.co.uk/news/world-middle-east-13115127>.

<sup>56</sup> *Hamas – the increase of terrorism against Israel and the ongoing strengthening*, Israel Security Agency, available at <http://www.shabak.gov.il/English/EnTerrorData/Reviews/Pages/Hamas%E2%80%93theincreaseofterrorism.aspx>

<sup>57</sup> *Special Report: The Deadly Rocket Arsenal of Hamas*, IDF (July 10, 2014), available at <http://www.idfblog.com/blog/2014/07/10/6-million-lives-in-danger-the-deadly-rocket-arsenal-of-hamas/>.

<sup>58</sup> *Behind the Headlines: Operation Pillar of Defense*, Israel Ministry of Foreign Affairs (Nov. 14, 2012), available at [http://www.mfa.gov.il/mfa/foreignpolicy/issues/pages/bth\\_operation\\_pillar\\_of\\_defense\\_14-nov-2012.aspx](http://www.mfa.gov.il/mfa/foreignpolicy/issues/pages/bth_operation_pillar_of_defense_14-nov-2012.aspx). See also *Legal Aspects of IDF Operation in Gaza - "Pillar of Defense"*, IDF, Military Advocate General's Corps (last updated Dec. 19, 2012) ("IDF Pillar of Defense Report"), available at <http://www.law.idf.il/879-en/Patzar.aspx> (detailing the events that led to Operation Pillar of Defense and the related operational and legal challenges faced by the IDF).

<sup>59</sup> IDF Pillar of Defense Report, *supra* note 58, at 4; see also *2012 Operation Pillar of Defense*, IDF, available at <http://www.idfblog.com/about-the-idf/history-of-the-idf/2012-operation-pillar-of-defense/>.

<sup>60</sup> See IDF Pillar of Defense Report, *supra* note 58; see also *Cease-fire agreement between Israel and Hamas*, Haaretz (Nov. 21, 2012), available at <http://www.haaretz.com/news/diplomacy-defense/text-cessate-fire-agreement-between-israel-and-hamas.premium-1.479653>; *Behind the Headlines: Ceasefire ends Operation Pillar of Defense*, Israel Ministry of Foreign Affairs (Nov. 21, 2012), available at [http://www.mfa.gov.il/MFA/ForeignPolicy/Issues/Pages/BTH\\_Ceasefire\\_Pillar\\_of\\_Defense\\_21-Nov-2012.aspx](http://www.mfa.gov.il/MFA/ForeignPolicy/Issues/Pages/BTH_Ceasefire_Pillar_of_Defense_21-Nov-2012.aspx).



Above: On November 16, 2012 children ran for shelter in Kiryat Malachi after a siren warned of an impending rocket strike. Two days earlier, three civilians were killed by a rocket that fell in the same city. (source: IDF).

## C. Military Buildup in Gaza and Events Leading to the 2014 Conflict

The lull in violence after the November 2012 ceasefire was short-lived. Hamas, along with other terrorist groups, fired 41 rockets and mortars at Israel from the Gaza Strip in 2013. In 2014, the attacks intensified, with more than 80 rockets and mortars fired at Israel in March 2014 alone.<sup>61</sup> Israel's air-defence system — which cost Israel hundreds of millions of dollars to develop and operate — was able to intercept many, but not all, of these rockets. Some still hit Israeli population centres such as Sderot and Netivot.<sup>62</sup> Moreover, even when rocket defence systems succeeded, these attacks inflicted immense psychological harm.<sup>63</sup> It is not possible to ensure the future success of such defensive systems when confronting an adaptive enemy that is constantly seeking to employ new tactics and weapons to respond to IDF counter-measures, and that is sponsored and supplied by militarily-advanced states like Iran.

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<sup>61</sup> See *Rocket fire from Gaza and Palestinian ceasefire violations after Operation Cast Lead*, Israel Ministry of Foreign Affairs (Jan. 2009), available at [http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Pages/Palestinian ceasefire violations since end Operation Cast Lead.aspx](http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Pages/Palestinian%20ceasefire%20violations%20since%20end%20Operation%20Cast%20Lead.aspx).

<sup>62</sup> See, e.g., Adiv Sterman, *Gaza terrorists bombard southern Israel in massive rocket attack*, Times of Israel (Mar. 12, 2014), available at <http://www.timesofisrael.com/gazans-pelt-southern-israel-with-massive-rocket-barrage/#ixzz3KzIAMfiC>.

<sup>63</sup> See *supra* note 40 and accompanying text.



Above: Rocket hits the town of Ashdod (Photo by Kobi Gideon)

During 2013 and 2014, Israel responded with targeted efforts to prevent future attacks and, at the same time, engaged in nine months of U.S.-led peace negotiations with the leaders of the Palestinian Authority. The peace talks broke down, however, when the Palestinian Authority rejected the framework proposed by the United States and instead sought to form a coalition with Hamas, which was seeking to increase its influence in the West Bank. Reconciliation efforts with the historically more moderate Palestinian Authority, however, failed to temper Hamas' extremism. Hamas leaders reaffirmed their opposition to diplomacy and their abiding refusal to recognise Israel's right to exist.<sup>64</sup> Meanwhile, the challenges of a unity government created new tensions between Hamas and the Palestinian Authority, as the organisations clashed over who would pay public-sector salaries in the Gaza Strip and who would collect excise duties on cross-border trade.<sup>65</sup> Indeed, Israeli intelligence discovered that Hamas operatives in Turkey were plotting to overthrow Palestinian

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<sup>64</sup> *Following the Fatah-Hamas reconciliation*, ITIC, *supra* note 10 ¶ 3; see also *Hamas Official Fatah recognizes Israel "on the political level" but not an organizational level; its real position is "very close to Hamas' position,"* Official PA daily, Al-Hayat Al-Jadida (June 5, 2014), available at Palestinian Media Watch, <http://www.palwatch.org/main.aspx?fi=695>; Al-Ayyam (Feb. 16, 2014), *PA chief negotiator: "No one asked Hamas to recognize Israel"*, Al-Falstina TV (Aug. 9, 2009) available at: Palestinian Media Watch, <http://www.palwatch.org/main.aspx?fi=694&all=1>.

<sup>65</sup> See *Gaza public servants strike over pay dispute*, Al Jazeera (June 27, 2014), available at <http://www.aljazeera.com/news/middleeast/2014/06/gaza-public-servants-strike-over-pay-dispute-2014626162613667541.html>; Khaled Abu Toameh, *Fatah, Hamas attempt to solve wage-payment issue*, Jerusalem Post (June 11, 2014), available at <http://www.jpost.com/Diplomacy-and-Politics/Fatah-Hamas-attempt-to-solve-wage-payment-issue-355924>; Hazem Balousha, *Despite reconciliation deal, Hamas controls Gaza* (June 23, 2014), available at <http://www.al-monitor.com/pulse/originals/2014/06/gaza-hamas-still-in-control-unity-government.html>.



Authority President Mahmoud Abbas, take control of the West Bank, and redouble terrorist attacks against Israel.<sup>66</sup>

Hamas' efforts at political expansion coincided with its procurement and manufacturing of increasingly lethal and effective weapons, often obtained at the expense of Palestinian humanitarian needs. By the summer of 2014, Hamas and other terrorist groups (such as Palestinian Islamic Jihad) had acquired more than 10,000 rockets and mortars.<sup>67</sup> These included 160-km range R-160 rockets, 75-km range Iranian Fajr-5 missiles, 80-km range J-80 rockets, 75-km range M-75 rockets, and 60-km range Sajeel rockets — capable of reaching central and northern Israel, including the major Israeli cities of Jerusalem, Tel Aviv, and Haifa. Long-range rockets were smuggled through Egypt and Sudan, as evidenced by Israel's interdiction of a ship carrying such weapons.<sup>68</sup> Hamas' and the other terrorist groups' arsenal also included thousands of locally-made rockets with ranges of up to 40 km, as well as mortars with ranges of between 3 km to 10 km.<sup>69</sup> Hamas stored many of these lethal weapons in medical facilities, schools, mosques, and administrative offices, as well as other civilian buildings in densely populated areas of the Gaza Strip.<sup>70</sup>

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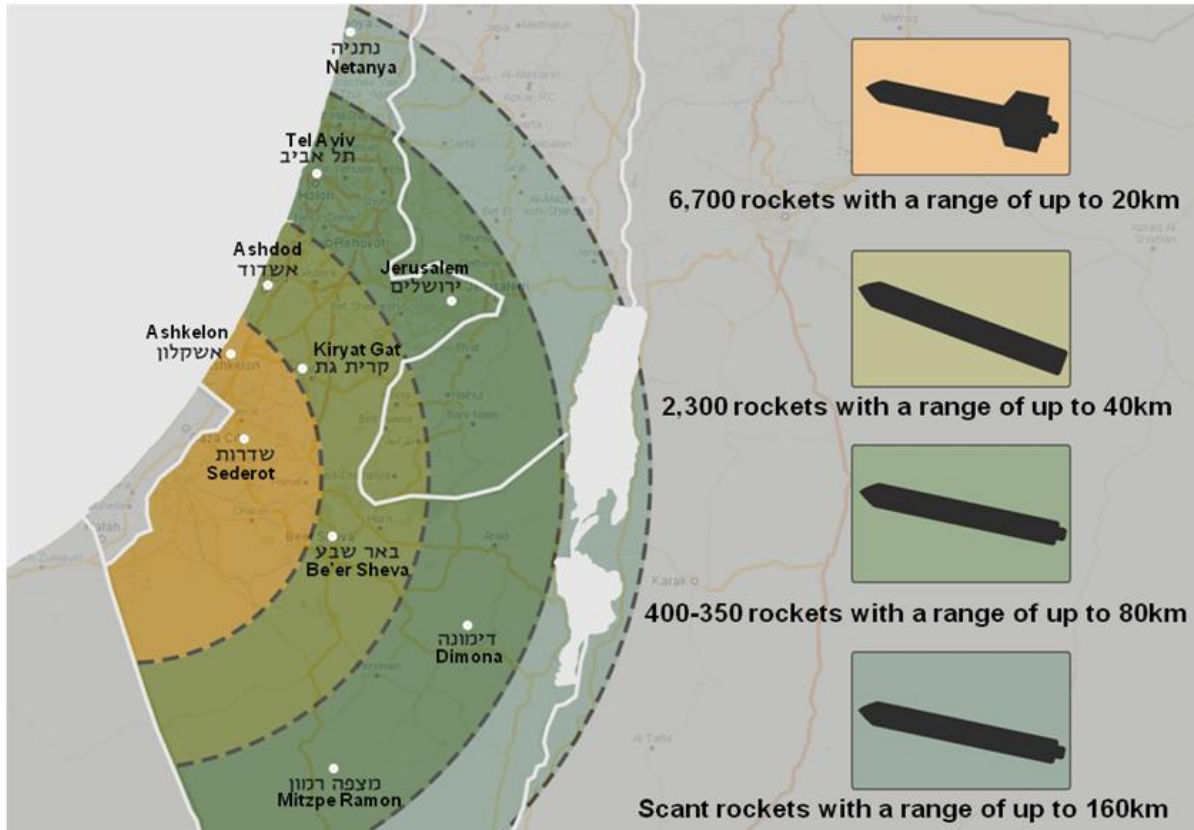
<sup>66</sup> See Yaakov Lappin, *Hamas in West Bank 'planned to topple Palestinian Authority,'* Jerusalem Post (Aug. 18, 2014), available at <http://www.jpost.com/Arab-Israeli-Conflict/Massive-Hamas-infrastructure-in-West-Bank-planned-to-topple-the-Palestinian-Authority-371409>; see also *Exposure of Judea and Samaria-Based Hamas Military Terror Infrastructures; Prevention of Suicide Bombing in Jerusalem*, Israel Security Agency (Sept. 2011), available at <http://www.shabak.gov.il/SiteCollectionImages/english/TerrorInfo/reports/shotef070911-en.pdf>.

<sup>67</sup> *Special Report: The Deadly Rocket Arsenal of Hamas*, IDF, *supra* note 57.

<sup>68</sup> *Israel halts 'weapons shipment from Iran,'* BBC News (Mar. 5, 2014), available at <http://www.bbc.com/news/world-middle-east-26451421>.

<sup>69</sup> *Special Report: The Deadly Rocket Arsenal of Hamas*, IDF, *supra* note 57.

<sup>70</sup> See *Hamas Fires Rockets from Everywhere in Gaza*, IDF (Aug. 8, 2014), available at <http://www.idfblog.com/blog/2014/08/04/hamas-fires-rockets-everywhere-gaza/>.



Above: Rockets in Gaza for use against Israel, as of 2014 (source: Foreign Press Briefing: Operation Protective Edge).

Hamas expanded its ability to threaten Israel militarily in other ways as well. Hamas amassed 16,000 militants in its Izz al-Din al-Qassam Brigades, plus 15,000 additional militants in its internal security apparatuses, which frequently cooperated with military forces and performed significant military functions during hostilities with Israel.<sup>71</sup> Moreover, Hamas assembled thousands of improvised explosive devices (IEDs) in Gaza's urban areas, developed a naval commando unit,<sup>72</sup> and established an elite commando unit trained to operate in Hamas' growing underground tunnel infrastructure.<sup>73</sup>

<sup>71</sup> The manner in which Hamas uses its Internal Security Forces for military functions was extensively discussed in the context of Operations Cast Lead and Pillar of Defense. See *The Operation in Gaza: Factual and Legal Aspects*, supra note 51, at 89-94; *Members of Hamas' Internal Security Services Who Were Also Operatives in Hamas' Military-Terrorist Wing and Were Killed in Operation Pillar of Defense*, ITIC (Dec. 24, 2012), available at [http://www.terrorism-info.org.il/Data/articles/Art\\_20445/E\\_255\\_12\\_214222039.pdf](http://www.terrorism-info.org.il/Data/articles/Art_20445/E_255_12_214222039.pdf).

<sup>72</sup> See *Captured Intel Reveals Hamas' Explosive Plans*, IDF (July 27, 2014), available at <http://www.idfblog.com/blog/2014/07/27/captured-intel-reveals-hamas-explosive-plans/>; *Rockets, naval commandos boost Hamas arsenal*, Ma'an News Agency (July 10, 2014), available at <http://www.maannews.net/eng/ViewDetails.aspx?ID=711780>.

<sup>73</sup> Adam Ciralsky, *Did Israel Avert a Hamas Massacre?*, Vanity Fair (Oct. 21, 2014), available at <http://www.vanityfair.com/politics/2014/10/gaza-tunnel-plot-israeli-intelligence#>.



Above left: Hamas equipment seized by IDF forces. Above right: Hamas naval commando units.

Hamas also increased the threat of terrorist infiltration into Israel by continuing to expand its extensive underground cross-border tunnel network. In January 2013, October 2013, and March 2014, Israel discovered new subterranean passageways that crossed the border from Gaza into Israel, including one that stretched approximately 1.7 kilometers from the Gazan city of Khan Yunis all the way to the Israeli border village of Kibbutz Ein Hashlosha.<sup>74</sup> These sophisticated tunnels — built with tens of millions of dollars in construction materials diverted from civilian projects<sup>75</sup> — provided Hamas with secret passages to enter Israeli border towns and residential communities, as well as with hiding places for weapons caches, bunkers, and command centres, located underneath densely populated areas in Gaza.<sup>76</sup> Israeli intelligence in early 2014 revealed that Hamas was planning a cross-border attack through a tunnel that opened near the Israeli community of Kerem Shalom, placing residents at grave risk.

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<sup>74</sup> See *2013 Annual Summary*, Israel Security Agency, available at <http://www.shabak.gov.il/ENGLISH/ENTERRORDATA/REPORTS/Pages/2013AnnualSummary.aspx>. See also Saud Abu Ramadan, *Five Hamas members die as Gaza tunnel collapses*, *supra* note 4; Mitch Ginsburg, *How Hamas dug its Gaza 'terror tunnel,' and how the IDF found it*, *Times of Israel* (Oct. 16, 2013), available at <http://www.timesofisrael.com/how-the-tunnels-in-gaza-are-dug-and-detected/#ixzz3AvyHydei>.

<sup>75</sup> See *The Gaza Underground*, IDF, available at <http://www.idfblog.com/operationgaza2014#Tunnels>.

<sup>76</sup> *Terror Underground: How Hamas Is Digging Tunnels and Building Rockets in Gaza*, IDF (Feb. 3, 2014), available at <http://www.idfblog.com/blog/2014/02/03/terror-underground-hamas-digging-tunnels-building-rockets-gaza/>; *The Price of Hamas' Underground Terror Network*, IDF (July 26, 2014), available at: <http://www.idfblog.com/blog/2014/07/26/price-hamas-underground-terror-network/>.





Above: Hamas military tunnels (Source: IDF)

Starting in early June 2014, terrorist organisations in Gaza increased their rocket attacks on Israel, in flagrant breach of the mutual understandings reached in November 2012. Israel responded with aerial precision-guided munitions against rocket launchers positioned in open spaces within the Gaza Strip, while also expressing a desire to de-escalate the conflict.

On June 12, Hamas operatives kidnapped and killed three Israeli youths in the West Bank, seeking through this and other forms of incitement to ignite a new *intifada*.<sup>77</sup> In response to this kidnapping, Israel launched Operation Brother's Keeper to search for the kidnapped teenagers (who were presumed alive at the time), as well as to reduce Hamas' ability to carry out similar attacks in the West Bank.

Meanwhile, between June 12 and July 7, 2014, Hamas and other terrorist organisations in Gaza fired approximately 300 rockets and mortars at Israeli population centres. On June 28, for example, a rocket fired from Gaza set a factory ablaze in Sderot (a town in southern Israel).<sup>78</sup> The following

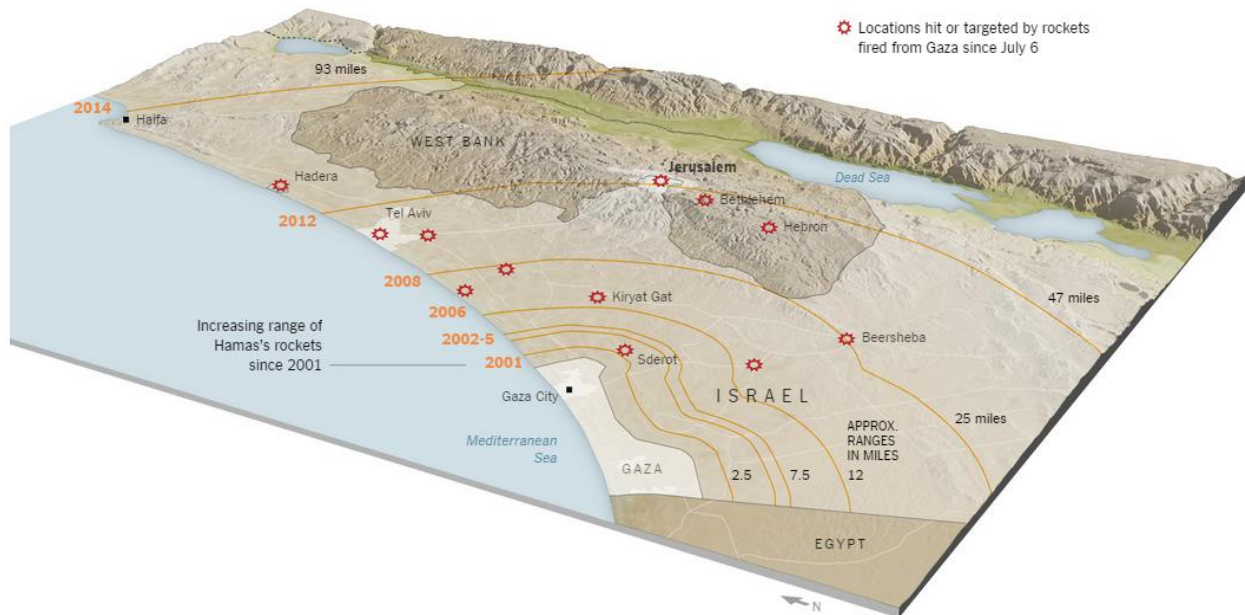
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<sup>77</sup> See *Terrorists responsible for abduction and murder of teens apprehended*, Israel Ministry of Foreign Affairs (Sep. 23, 2014), available at <http://mfa.gov.il/MFA/PressRoom/2014/Pages/Terrorists-responsible-for-abduction-and-murder-of-teens-apprehended-23-Sep-2014.aspx>. See also Yonah Jeremy Bob, *IDF court convicts Hussam Hassan Kawasme based on his own confession of planning and financing attack*, Jerusalem Post (Dec. 31, 2014), available at <http://www.jpost.com/Israel-News/Israel-convicts-Hamas-mastermind-in-June-kidnap-murder-of-three-Israeli-teens-386252>; Saleh al-Aroui, *Turkey-based senior Hamas operative who handles military-terrorist networks in Judea and Samaria, admitted that Hamas was behind the abduction and murder of the three Jewish youths from Gush Etzion*, ITIC (Aug. 24, 2014), available at <http://www.terrorism-info.org.il/en/article/20706>. In the month preceding the 2014 Gaza Conflict, Hamas repeatedly incited the murder of civilians. For example, on June 10, just two days before three Israeli civilian teenagers were kidnapped and murdered by Hamas militants, Hamas spokesman Hussam Badram posted the following message on his Facebook page: "We call on the men of resistance in the West Bank, primarily the Al-Qassam Brigades, to fulfill their duty...by targeting the occupation soldiers and its settlers." See Elhanan Miller, *Hamas calls on armed wing to kill soldiers and settlers*, Times of Israel (June 10, 2014), available at <http://www.timesofisrael.com/hamas-calls-on-armed-wing-to-kill-soldiers-and-settlers/>.

<sup>78</sup> Mattan Tzuri, *Gaza rocket hits Sderot factory, setting it ablaze*, Ynetnews (June 28, 2014), available at <http://www.ynetnews.com/articles/0,7340,L-4535501,00.html>; Gadi Golan & Lilach Shoval, *Sderot residents not discouraged by despicable terrorists*, Israel Hayom (June 29, 2014), available at [http://www.israelhayom.com/site/newsletter\\_article.php?id=18485](http://www.israelhayom.com/site/newsletter_article.php?id=18485).



week, on July 3, a children's day-camp in Sderot suffered a direct hit; miraculously, no children were injured.<sup>79</sup> During this period, rocket attacks from Gaza reached distances as far as 100 km and placed over five million Israelis (out of a population of just over eight million) within the range of fire.<sup>80</sup>



Above: Map showing the increasing range of Hamas rockets (Source: New York Times, July 13, 2014)

As explained above, the rocket and mortar attacks from the Gaza Strip caused widespread panic and disruption to daily life in Israel. Upon hearing a warning siren from the Israeli Home Front Command, civilians had anywhere from 15 to 90 seconds, depending on their proximity to Gaza, to find shelter. Nearly a million Israelis had less than a minute to reach shelter before a rocket would explode. Because of the need to have immediately available cover, schools and summer camps closed, public transportation (such as train service) was interrupted, countless outdoor events were

<sup>79</sup> *Sderot children's miraculous escape from rocket*, Israel Today (July 3, 2014), available at [www.israeltoday.co.il/NewsItem/tabid/178/nid/24715/Default.aspx?archive=article\\_title](http://www.israeltoday.co.il/NewsItem/tabid/178/nid/24715/Default.aspx?archive=article_title). See also *Testimony: Avi Adaf of Sderot describes rocket hit on a neighboring home used for child day care*, BTselem, available at [http://www.btselem.org/testimonies/20140714\\_sderot\\_avi\\_adaf](http://www.btselem.org/testimonies/20140714_sderot_avi_adaf).

<sup>80</sup> During the 2014 Gaza Conflict, Hamas and terrorist organizations in Gaza began firing their longest-range rockets, increasing the number of Israelis under fire to approximately million, almost 70% of the population. *Operation Protective Edge - Q&A*, Israel Ministry of Foreign Affairs (Aug. 14, 2014), available at <http://mfa.gov.il/MFA/ForeignPolicy/Issues/Pages/Operation-Protective-Edge-QA.aspx>.



cancelled, and innocent civilians suffered short- and long-term psychological effects. Thousands of citizens were afraid to leave their homes, while others fled their homes to safer places.<sup>81</sup>

At the same time that Hamas and the other terrorist organisations in Gaza were escalating their rocket and mortar fire from Gaza, the threat from Hamas' underground military infrastructure was becoming all the more apparent. In June, a cross-border tunnel was discovered when it collapsed east of Gaza City, killing five Hamas militants.<sup>82</sup> On July 5, the IDF destroyed Hamas' cross-border tunnel near the Kerem Shalom border crossing where Hamas was planning an attack.<sup>83</sup> Because Israel's aerial defence systems could not protect against attacks from underground tunnels, Israelis in border towns and residential communities lived in fear that armed Hamas militants could emerge at any moment from a secret exit point beneath their feet.<sup>84</sup>

In the face of increasing threats from rocket and mortar fire as well as tunnel infiltrations, Israel made clear to Hamas that it wanted to de-escalate the conflict. Israel repeatedly appealed to the U.N.<sup>85</sup> and also welcomed Egyptian and other actors' attempts to bring about a ceasefire.<sup>86</sup>

Despite Israel's restraint and efforts at de-escalation, the Hamas-led attacks only intensified, with over 60 rocket launches from Gaza in a single day on July 7. The number, frequency, and intensity of these attacks left the Government of Israel with no choice but to launch a broader military operation in order to protect Israel's civilian population and dismantle Hamas military capabilities. No government would have failed in such circumstances to defend its citizens from continued attack; indeed, most governments would not have exercised the restraint that Israel did.

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<sup>81</sup> *Israel Under Fire: Life Comes to Halt*, IDF (July 9, 2014), available at <http://www.idfblog.com/blog/2014/07/09/israel-fire-life-comes-halt/>.

<sup>82</sup> See Saud Abu Ramadan, *Five Hamas members die as Gaza tunnel collapses*, Haaretz (June 19, 2014), available at <http://www.haaretz.com/news/diplomacy-defense/1.599950>.

<sup>83</sup> See Benny Avni, *Is This the Last Stand for Hamas?*, Newsweek (July 8, 2014), available at <http://www.newsweek.com/last-stand-hamas-257942>.

<sup>84</sup> See, e.g., Inna Lazareva, *Gaza conflict: Israelis living in fear of Palestinian tunnel attacks*, Telegraph (London) (July 21, 2014), available at [www.telegraph.co.uk/news/worldnews/middleeast/israel/10979467/Gaza-conflict-Israelis-living-in-fear-of-Palestinian-tunnel-attacks.html](http://www.telegraph.co.uk/news/worldnews/middleeast/israel/10979467/Gaza-conflict-Israelis-living-in-fear-of-Palestinian-tunnel-attacks.html).

<sup>85</sup> See e.g. Letters of 26 February 2013 (U.N. Doc. S/2013/114); 4 April 2013 (U.N. Doc. S/2013/214); 25 June 2013 (U.N. Doc. S/2013/373); 13 August 2013 (U.N. Doc. S/2013/484); 9 October 2013 (S/2013/600); 28 October 2013 (U.N. Doc. S/2013/632); 26 December 2013 (U.N. Doc. S/2013/771); 14 January 2014 (U.N. Doc. S/2014/23); 16 January 2014 (U.N. Doc. S/2014/28); 18 February 2014 (U.N. Doc. S/2014/107); 28 April 2014 (U.N. Doc. S/2014/301); 2 June 2014 (U.N. Doc. S/2014/385); 17 June 2014 (U.N. Doc. S/2014/416); 7 July 2014 (U.N. Doc. S/2014/474); 15 July 2014 (U.N. Doc. S/2014/494).

<sup>86</sup> *Behind the Headlines: Israel accepts ceasefire, Hamas rejects*, Israel Ministry of Foreign Affairs (July 15, 2014), available at <http://mfa.gov.il/MFA/ForeignPolicy/Issues/Pages/Behind-the-headlines-Israel-accepts-ceasefire-15-Jul-2014.aspx>; Patrick Kingsley, *Hamas Tells Egypt It Rejects Gaza Ceasefire*, The Guardian (July 16, 2014), <http://www.theguardian.com/world/2014/jul/16/egypt-no-negotiations-gaza-ceasefire-israel-hamas>.



While Operation Protective Edge was initially intended by Israel to be a limited aerial campaign, with Israeli leadership stressing on numerous occasions that “quiet [from Hamas and other terrorist groups] will be answered with quiet,”<sup>87</sup> persistent attacks from Gaza by Hamas and other terrorist organizations (despite continued ceasefire initiatives) necessitated an expansion of the operation, including a ground campaign to neutralise the vast underground network of cross-border tunnels threatening Israeli civilians. The limited scope of this ground operation was demonstrated by Israel’s withdrawal of its forces from Gaza as soon as Hamas’ cross-border tunnel infrastructure had been sufficiently degraded. Even after this ground campaign concluded, Hamas continued to fire rockets into Israel, forcing Israel to continue an air campaign for three more weeks.

## **D. The International Legal Basis for Israel’s Actions to Protect its Citizens**

In these circumstances, Israel was justified under international law in using force against Hamas and the other terrorist organisations in Gaza. Indeed, leading members of the international community including Canada,<sup>88</sup> the US,<sup>89</sup> the EU,<sup>90</sup> and Australia<sup>91</sup> have acknowledged Israel’s right to use force in this context.

Israel’s military actions during Operation Protective Edge were part of an ongoing armed conflict involving attacks against Israel by Hamas and other terrorist organisations in Gaza for over 14 years. Based upon the intensity of Hamas’ violent attacks against Israel since 2000 (and especially since 2008) and the resulting exchanges of hostilities, the confrontation between Israel and these terrorist organisations in Gaza satisfies the definition of armed conflict under international law.<sup>92</sup> Operation Protective Edge was simply the latest in a series of armed confrontations, precipitated by the continuing attacks perpetrated by Hamas and other terrorist organisations against Israel. After previous periods of intense fighting (including in 2009 and 2012), Hamas agreed to ceasefires, each of which it later breached, leading to Israel’s resumption of responsive military action to defend its population from attacks.

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<sup>87</sup> *Quiet will be Answered with Quiet, Fire with Fire*, Jerusalem Post (March 13, 2014), available at <http://www.jpost.com/Defense/Quiet-will-be-answered-with-quiet-fire-with-fire>.

<sup>88</sup> Statement by the Prime Minister of Canada in Response to the Situation in Gaza (July 13, 2014), available at <http://pm.gc.ca/eng/news/2014/07/13/statement-prime-minister-canada-response-situation-israel>.

<sup>89</sup> Daily Briefing by the Press Secretary, The White House (July 11, 2014) available at <http://www.whitehouse.gov/the-press-office/2014/07/11/daily-briefing-press-secretary-07112014>.

<sup>90</sup> *EU Council conclusions on the Middle East Peace Process* (July 22, 2014), available at [http://www.eu-un.europa.eu/articles/en/article\\_15300\\_en.htm](http://www.eu-un.europa.eu/articles/en/article_15300_en.htm).

<sup>91</sup> Jared Owens, *Abbott backs Israel’s right to defend itself from Hamas rockets*, The Australian, available at <http://www.theaustralian.com.au/national-affairs/politics-news/abbott-backs-israels-right-to-defend-itself-from-hamas-rockets/story-fn59nqld-1227008551567?nk=c4c7979f1d75fa524115c745343acfe5>.

<sup>92</sup> See *Prosecutor v Tadic*, Case No. IT-94-1-T, Decision on Defence Motion for Interlocutory Appeal on Jurisdiction, ICTY Appeals Chamber ¶ 70 (Oct. 2, 1995).



Hamas' attacks leading up to the 2014 Gaza Conflict were thus part of a larger, ongoing armed conflict. But even if one were not to consider the 2014 Conflict part of a continuous armed conflict justifying Israel's use of force both previously and during this time, Hamas' armed attacks against Israel in 2014 would independently qualify as an armed attack triggering Israel's inherent right of self-defence. Under this rationale as well, Israel was justified in undertaking a military response to defend its citizens. Under customary international law, Israel had the clear right to use force in self defence in such circumstances<sup>93</sup> and did so in a manner that fully complies with international law, including the principles of necessity and proportionality.

*Necessity.* Israel's use of military force against Hamas during the 2014 Gaza Conflict was necessary as the only feasible means to neutralise the ongoing armed attacks and the imminent threat of further escalating armed attacks from Gaza.<sup>94</sup> As described above, Israel's repeated efforts to de-escalate the situation and stop the attacks using non-military means did not succeed in eliminating the threat.

*Proportionality.* Israel's use of force was also proportionate, given the need to repel the attacks and reduce the continuing threat posed by Hamas and other terrorist groups operating out of Gaza.<sup>95</sup> Israel responded to rocket fire throughout the month of June 2014 and in early July 2014 with limited

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<sup>93</sup> Considering that the 2014 Conflict involved non-state actors (Hamas and other terrorist organisations in Gaza) and did not take place in the territory of another state (as no state currently exists in the Gaza Strip), the customary prohibition on the use of force against the territorial integrity or political independence of a state is not applicable in this context. Nevertheless, even if this prohibition applied, Israel's actions were justified based on Israel's inherent right of self-defence. See U.N. Charter, art. 51 (confirming "the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security"); see also Christopher Greenwood, *Terrorism: The Proper Law and the Proper Forum*, 79 INT'L L. STUD. 353, 355 (Fred L. Borch & Paul S. Wilson eds., 2003) ("Nothing in the text or the drafting history of the Charter suggests that 'armed attack' is confined to the acts of states . . . . Nor has state practice or the jurisprudence of international tribunals since the adoption of the Charter espoused a formalistic distinction between acts of states and acts of terrorist and other groups in determining what constitutes an armed attack."); Thomas M. Franck, *Terrorism and the Right of Self-defense*, 95 AM. J. INT'L L. 839, 840 (2001) ("[I]t is inconceivable that actions the Security Council deems itself competent to take against a non-state actor . . . should be impermissible when taken against the same actor under Article 51 in exercise of a state's 'inherent' right of self-defense. If the Council can act against Al Qaeda, so can an attacked state.").

<sup>94</sup> See Michael N. Schmitt, *Counter-Terrorism and the Use of Force in International Law*, The Marshal Center Papers, No. 5, at 19 (2003) ("The principle of necessity requires that the resort to force occur only when no other reasonable options remain to frustrate continuation of the armed attack. Obviously, directly reacting with force to an armed attack that is underway would seldom be deemed unnecessary.").

<sup>95</sup> See *id.* at 20 ("The proportionality principle simply requires that the response in self-defense be no more than necessary to defeat the armed attack and remove the threat of reasonably foreseeable future attacks."); John Norton Moore, *Jus Ad Bellum Before the International Court of Justice*, 52 VA. J. INT'L L. 903, 915 (2012) ("[P]roportionality as a general proposition in *jus ad bellum* is best understood as a requirement that responding coercion must be limited in intensity and magnitude to what is reasonably necessary to promptly secure the permissible objectives of defense. Emphatically, proportionality in *jus ad bellum* is not simply tit-for-tat application of equivalent force, such as ten tanks to respond to an attack from ten tanks, or tit-for-tat measurement of damages.").



strikes using precision-guided munitions. However, when faced with an escalation of violence that culminated on July 7 with more than 60 rockets fired at Israel in a single day, the Government of Israel was compelled to expand its use of force. Hamas' continuation of rocket and mortar fire against Israel throughout Operation Protective Edge demonstrated the need for Israel's sustained military action. In this context it should be stressed that the number of civilian casualties of the adversary in the context of a military operation does not necessarily suggest that military action was disproportionate. Rather, under the Law of Armed Conflict,<sup>96</sup> the proportionality of force used in self-defence depends upon the amount of force required to repel attacks and eliminate the continuing threat.<sup>97</sup> Figures regarding the number of casualties (either looked at as a whole or as compared to losses incurred on the other side), do not, in and of themselves, point to a disproportionate use of force. In responding to Hamas's attacks, Israel used no more force, for no longer a period than necessary to accomplish its objective: protecting Israel from incessant, illegal terrorist attacks.

Operation Protective Edge lasted from July 7 to August 26 and ended pursuant to understandings reached between the parties. However, despite these understandings, Hamas and other terrorist organisations in Gaza continue to incite violence<sup>98</sup> and attack Israel,<sup>99</sup> while attempting

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<sup>96</sup> This Paper uses the term Law of Armed Conflict in its ordinary sense — describing the legal obligations of parties to an armed conflict in the course of their military operations. International Humanitarian Law is used by many commentators and countries as an interchangeable term, as is the laws of war.

<sup>97</sup> In this regard it is also worth mentioning that the principle of proportionality, when viewed in the context of the IDF's actions *during* the 2014 Conflict itself (as opposed to the use of force at the initiation of the conflict), carries a different meaning: the requirement that a commander will not initiate an attack if the anticipated collateral damage is expected to be excessive in relation to the military advantage expected to be achieved. This assessment is made on a case-by-case basis. Therefore, here too, overall casualty statistics do not serve, on their own, as an indication as to the proportionality of attacks in the *in bello* context, as each attack must be assessed on its own.

<sup>98</sup> Since the conclusion of the 2014 Conflict, Hamas has endorsed a spate of terrorist attacks targeting and killing Israeli civilians. For example, following a roadside stabbing attack by a Palestinian terrorist on November 10, in which a 26-year old Israeli woman was killed and two others were injured, Hamas spokesman Sami Abu Zuhri announced that "Hamas welcomes the heroism operations in the streets of the homeland... The movement calls for continuing these acts of heroism." *Hamas Praises Recent Terror Attacks In Israel, Calls For Escalation And Launch Of New Intifada, Threatens: 'The Palestinian Volcano Will ... Erupt In Occupation's Face,'* MEMRI (Nov. 19, 2014), available at [http://www.memri.org/report/en/print8249.htm#\\_ednref9](http://www.memri.org/report/en/print8249.htm#_ednref9) (noting that the Palestinian Islamic Jihad also expressed its support). The Palestinian Islamic Jihad claimed responsibility for the attack. See Jeffrey Heller, *Israeli soldier and woman stabbed to death by Palestinians*, Reuters (Nov. 10, 2014), available at <http://www.reuters.com/article/2014/11/10/us-mideast-israel-violence-idUSKCN0IU0Z920141110>. Moreover, on November 16, Hamas described the stabbing of a 32-year-old Israeli civilian by a Palestinian terrorist as a "natural response to the crimes of Israel in Jerusalem and Al-Aqsa mosque." *News of Terrorism and the Israeli-Palestinian Conflict: November 11-18, 2014*, ITIC, available at <http://www.terrorism-info.org.il/en/articleprint.aspx?id=20730>. On November 18, following the cleaver attack on Israeli civilians praying in a Jerusalem synagogue, in which four civilians were killed and eight were injured, Hamas spokesman Abu Zuhri said "Hamas calls for more operations like it," and the Palestinian Islamic Jihad said it "salutes the operation in Jerusalem." *Hamas and Islamic Jihad praise Jerusalem attack*, Times of Israel (Nov. 18, 2014), available at <http://www.timesofisrael.com/hamas-and-islamic-jihad-praise-jerusalem-attack/>. On January 21, 2015, after a terrorist stabbed multiple Israeli civilians on a bus in Tel Aviv, Hamas spokesperson Husam Badran praised the attack, which Izzat al-Rishq, a member of Hamas' political bureau, called "heroic and brave." Elhanan Miller, *Hamas leaders praise Tel Aviv stabbing as 'heroic,'* Times of Israel (Jan. 21, 2015), available at <http://www.timesofisrael.com/hamas-leaders-praise-tel-aviv-stabbing-as-heroic/>.



to build up their military capacity.<sup>100</sup> The armed conflict that Hamas and other terrorist organisations initiated more than fourteen years ago remains ongoing.

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<sup>99</sup> For example, on November 1, 2014, a rocket hit the western Negev; on November 27, 2014, shots were fired at an IDF vehicle patrolling the security fence with Gaza; on December 19, 2014, another rocket hit the western Negev; and on December 24, 2014, a sniper opened fire on an IDF patrol near the security fence with Gaza. See *Rocket fire from Gaza and Palestinian ceasefire violations after Operation Cast Lead*, Ministry of Foreign Affairs (Jan. 2009), available at

[http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Pages/Palestinian ceasefire violations since end Operation Cast Lead.aspx](http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Pages/Palestinian%20ceasefire%20violations%20since%20end%20Operation%20Cast%20Lead.aspx).

<sup>100</sup> Yaakov Lapin, *Hamas conducts rocket tests, drawing the attention of the Israeli military*, Jerusalem Post (Dec. 22, 2014), available at <http://www.jpost.com/Breaking-News/Hamas-conducts-rocket-tests-drawing-the-attention-of-the-Israeli-military-385382>; *Rocket Testing and Tunnel Reconstruction*, IDF (Dec. 22, 2014), available at <http://www.idfblog.com/blog/2014/12/22/hamas-reconstructing-tunnels-southern-israel/>; Elior Levy, *Hamas reconstructing terror tunnels using Israeli materials*, Ynetnews (Dec. 19, 2014), available at <http://www.ynetnews.com/articles/0,7340,L-4605504,00.html>; *Hamas' Construction Of Gaza Tunnels Continues*, MEMRI (Oct. 23, 2014), available at <http://www.memri.org/report/en/print8189.htm>.