

# TIME TO ACT ON HUMAN SHIELDS

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## INTRODUCTION

The “Sanctioning the Use of Civilians as Defenseless Shields Act” (“Shields Act”) was enacted on December 21, 2018. It required the president, within one year (that is, by December 21, 2019), to submit to Congress a list of, and impose financial sanctions on, each foreign person involved in human-shields use by Hamas or Hezbollah “on or after the date of enactment.”

The president has delegated his Shields Act authorities to the Treasury secretary, who is empowered to implement the Act in consultation with the secretary of state. As of October 2020, however, they have not taken action, despite strong evidence of human-shields use by both Hezbollah and Hamas. The Trump administration has not issued any notifications to Congress, or imposed any sanctions, pursuant to the law.

In a speech to the UN General Assembly on September 29, 2020, Israeli Prime Minister Benjamin Netanyahu specified three Beirut locations where Hezbollah established missile factories near or underneath civilian residences. Two of the factories are operating underneath civilian apartment buildings. This is strong evidence for a human-shields designation.

Shortly after Netanyahu’s speech, in an effort to debunk his claims, Hezbollah gave journalists a tour of one of the sites. Video of the tour actually confirmed that it is a missile factory, with missile production machines clearly visible. The video also showed (and Israeli officials subsequently named) a Hezbollah operative in the factory: Mohammad Kamel Fouad Rammal (a.k.a. Muhammad Kamil Fuad Rimal), the site manager.

Treasury has an obligation to designate Rammal under Shields Act Section 3(b)(1), as he is knowingly using human shields and “is a member of Hizballah or is knowingly acting on behalf of Hizballah.” Treasury should also designate Hezbollah under Section 3(b)(3) for knowingly and materially supporting, ordering, controlling, directing, or otherwise engaging in the acts for which Rammal is designated.

Treasury should also use open-source and classified intelligence to list and penalize others involved in human-shields use. This should include additional Hezbollah officials (in addition to Rammal) who knowingly ordered, controlled, or otherwise directed the use of such shields; municipal officials who knowingly provided permits for construction of missile factories underneath or next to such civilian facilities; and businesspersons who knowingly and materially supported construction of missile factories underneath or next to civilian facilities.

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Open-source research also provides substantial support for listing two Gaza leaders for human-shields use since the Shields Act's date of enactment: Yahya Sinwar, the top Hamas political leader in Gaza, and Khaled al-Batsh, the head of Gaza's National Authority for Return Marches.

## LEGAL REQUIREMENTS

On December 21, 2018, President Donald Trump signed into law H.R. 3342, the "Sanctioning the Use of Civilians as Defenseless Shields Act"<sup>1</sup> ("Shields Act"), which became Public Law No. 115-348. The House and the Senate had previously passed H.R. 3342 unanimously.<sup>2</sup>

### MANDATORY LISTING AND SANCTIONS FOR HAMAS' AND HEZBOLLAH'S USE OF HUMAN SHIELDS

The Shields Act principally requires the president to submit to Congress a list of, and impose financial sanctions on:

- "each foreign person" the president determines is a member of Hamas or Hezbollah, or knowingly acts on behalf of those organizations, and "knowingly orders, controls, or otherwise directs the use of civilians protected as such by the law of war to shield military objectives from attack"; and
- "each foreign person or agency or instrumentality of a foreign state" that the president determines "knowingly and materially supports, orders, controls, directs, or otherwise engages in" the use of human shields as defined above.

The Shields Act requires the submission of this list to the appropriate congressional committees "not later than one year after the date of the enactment of this Act,"<sup>3</sup> that is, not later than December 21, 2019. As of October 2020, the president has not met this obligation.

### OPTIONAL LISTING AND SANCTIONS FOR OTHER FOREIGN USES OF HUMAN SHIELDS

In addition to requiring the issuance of Hamas- and Hezbollah-related human-shields sanctions, the Shields Act also authorizes a separate sanctions list of other entities and individuals that employ human shields, such as members of the Taliban or Islamic State. The Shields Act describes this second list as "permissive" because the law does not require the president to make such designations. The Shields Act states that "not later than one year after the date of the enactment of this Act, and annually thereafter, the President should submit to the appropriate congressional committees a list of each foreign person that the President determines, on or after the date of the enactment of this Act, knowingly orders, controls, or otherwise directs the use of civilians protected as such by the law of war to shield military objectives from attack, excluding persons" associated with the above-referenced mandatory list and sanctions relating to Hamas' and Hezbollah's use of human shields.<sup>4</sup>

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1. Sanctioning the Use of Civilians as Defenseless Shields Act, Pub. L. 115-348, 132 Stat. 5055–5058, codified as amended at 50 U.S.C. §1701. (<https://www.congress.gov/115/plaws/publ348/PLAW-115publ348.pdf>)

2. Library of Congress, "H.R.3342 - Sanctioning the Use of Civilians as Defenseless Shields Act," accessed October 9, 2020. (<https://www.congress.gov/bill/115th-congress/house-bill/3342/all-actions?q=%7B%22search%22%3A%5B%22human+shields%22%5D%7D&tr=3&overview=closed#tabs>)

3. Sanctioning the Use of Civilians as Defenseless Shields Act, Pub. L. 115-348, 132 Stat. 5055–5058, codified as amended at 50 U.S.C. §1701. (<https://www.congress.gov/115/plaws/publ348/PLAW-115publ348.pdf>)

4. Ibid.

The Islamic State and Taliban have used human shields extensively against U.S. warfighters during the last decade. Assuming the U.S. government has or can collect sufficient evidence of such use since the Shields Act's date of enactment (December 21, 2018), Treasury could list those organizations and/or their relevant officials pursuant to this "permissive" provision.

## DELEGATION OF AUTHORITIES

In a presidential memorandum on May 24, 2019, the president delegated "to the Secretary of the Treasury, in consultation with the Secretary of State," the principal functions and authorities vested in the president by the Shields Act.<sup>5</sup> On July 23, 2019, the Department of the Treasury's Office of Foreign Assets Control amended the Global Terrorism Sanctions Regulations to reflect the Shields Act.<sup>6</sup> The authority to investigate and take action against human-shields violations now sits primarily with Treasury's Office of Terrorism and Financial Intelligence.

## POLICY CONTEXT OF THE HUMAN-SHIELDS LAW

The use of civilians to shield military objectives from lawful attack or to deliberately cause civilian casualties is a war crime that violates the Fourth Geneva Convention.<sup>7</sup> This war crime is commonly referred to as the use of human shields.

U.S. law<sup>8</sup> and the U.S. Department of Defense's Law of War Manual<sup>9</sup> explicitly prohibit U.S. service members from using human shields. By contrast, terrorists and other non-state actors, including al-Qaeda, Hamas, Hezbollah, the Islamic State, and the Taliban, have repeatedly used human shields against U.S., Israeli, and other allied armed forces. Tactically, terrorists use human shields to cause Western militaries to self-impose restraints beyond those required by the law of armed conflict. These restraints put at risk the lives of Western troops and render them less effective in defending their citizens.

Those who employ human shields also seek to delegitimize lawful military operations, erode the will of Western militaries to fight, and spur anger at Western militaries by generating civilian casualties for which the Western militaries are blamed. Terrorists engage in the *actual* war crime of using human shields in order to create a situation in which U.S., Israeli, and other Western militaries can more readily be *falsely* accused of engaging in war crimes such as the deliberate killing of civilians.

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5. Delegation of Functions and Authorities Under the Sanctioning the Use of Civilians as Defenseless Shields Act, U.S. Executive Office of the President, 84 Federal Register 27697, June 13, 2019, page 27,697. (<https://www.federalregister.gov/documents/2019/06/13/2019-12696/delegation-of-functions-and-authorities-under-the-sanctioning-the-use-of-civilians-as-defenseless>)

6. Global Terrorism Sanctions Regulations; Transnational Criminal Organizations Sanctions Regulations; and Hizballah Financial Sanctions Regulations, U.S. Department of the Treasury, Office of Foreign Assets Control, 84 Federal Register 35307, July 23, 2019, pages 35,307–35,313. (<https://www.federalregister.gov/documents/2019/07/23/2019-15600/global-terrorism-sanctions-regulations-transnational-criminal-organizations-sanctions-regulations>)

7. Geneva Convention IV, Article 28, quoted in International Committee of the Red Cross, "Practice Relating to Rule 97. Human Shields," *Customary International Humanitarian Law Database*, accessed October 9, 2020. ([https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2\\_rul\\_rule97](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule97))

8. Crimes triable by military commission, 10 U.S. Code 950t. (<https://www.law.cornell.edu/uscode/text/10/950t>)

9. U.S. Department of Defense, Office of General Counsel, "Department of Defense Law of War Manual," June 2015, updated December 2016. (<https://dod.defense.gov/Portals/1/Documents/pubs/DoD%20Law%20of%20War%20Manual%20-%20June%202015%20Updated%20Dec%202016.pdf?ver=2016-12-13-172036-190>)

For Hamas and Hezbollah, a core element of their campaigns to delegitimize Israel involves using human shields, which is itself a war crime, and then falsely accusing the Israel Defense Forces (IDF) of deliberately killing innocent civilians when the IDF targets hostile personnel and their facilities.<sup>10</sup>

The Taliban have also proved exceptionally effective at using human shields, including against the United States and its NATO allies. Professor Charles Dunlap Jr., a retired major general and former deputy judge advocate general of the U.S. Air Force, has decried “the effect of NATO’s effort to impose more restrictive airstrike rules than the law of armed conflict requires” in response to the use of human shields. According to Dunlap, NATO at one point announced “that its forces ‘would not fire on positions if it knew there were civilians nearby.’”<sup>11</sup>

As Dunlap noted, “by creating restrictions beyond what the law of armed conflict would require, NATO’s pronouncements encourage the Taliban to shield themselves from air attack by violating the law of armed conflict through embedding themselves among civilians. This permits a form of lawfare where NATO’s adherence to its own rules, in essence, creates for its adversary a substitute for conventional military weaponry.”<sup>12</sup>

“For the Taliban to survive,” Dunlap added, “it is not necessary for them to build conventional air defenses; rather, just by operating amidst civilians they enjoy a legal sanctuary created by NATO’s self-imposed restrictions that is as secure as any fortress bristling with anti-aircraft guns.”<sup>13</sup>

The Islamic State also used human shields extensively against the United States and its coalition partners. For example, in August 2016, Islamic State fighters fleeing Manbij, Syria, placed civilians in each of the 500 vehicles in their retreating convoy.<sup>14</sup> U.S. fighters did not fire on the cars. “We had to treat them all as non-combatants. We didn’t shoot. We kept watching,” said the spokesman of the U.S.-led coalition, Colonel Chris Garver.<sup>15</sup>

The Islamic State also used human shields during battles for the Iraqi cities of Mosul,<sup>16</sup> Fallujah,<sup>17</sup> and Ramadi,<sup>18</sup> prolonging the terror group’s hold on those territories. According to a May 2015 article in *The New York Times*, “Islamic State troops ... appear[ed] to be taking advantage of the restrictions” the U.S. military adopted to minimize civilian harm, “as the militants increasingly [fought] from within civilian populations to deter attack.”<sup>19</sup>

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10. See, for example, the section titled “Specific Sanctionable Examples of Human-Shields Use.”

11. Charles J. Dunlap Jr., “Does Lawfare Need an Apologia?” *Case Western Reserve Journal of International Law*, Vol. 43, 2010, page 134. ([https://scholarship.law.duke.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=2970&context=faculty\\_scholarship](https://scholarship.law.duke.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=2970&context=faculty_scholarship))

12. Ibid.

13. Ibid.

14. Jim Michaels, “U.S. Plans to Hit ISIL Before Militants Grab Human Shields,” *USA Today*, September 6, 2016. ([https://www.usatoday.com/story/news/world/2016/09/06/us-plans-hit-isil-before-militants-grab-human-shields/89716534/?utm\\_source=Sailthru&utm\\_medium=email&utm\\_campaign=Military%20EBB%209-7-16&utm\\_term=Editorial%20-%20Military%20-%20Early%20Bird%20Brief](https://www.usatoday.com/story/news/world/2016/09/06/us-plans-hit-isil-before-militants-grab-human-shields/89716534/?utm_source=Sailthru&utm_medium=email&utm_campaign=Military%20EBB%209-7-16&utm_term=Editorial%20-%20Military%20-%20Early%20Bird%20Brief))

15. “Photos Show IS Militants Fleeing Manbij with ‘Human Shields,’” *BBC News* (UK), August 19, 2016. (<https://www.bbc.com/news/world-middle-east-37129408>)

16. Ben Kesling, “ISIS Herds Civilians to Mosul as Human Shields,” *The Wall Street Journal*, October 28, 2016. (<https://www.wsj.com/articles/isis-herds-civilians-to-mosul-as-human-shields-1477675640>)

17. Ghassan Adnan and Asa Fitch, “Islamic State Militants Fire on Civilians Fleeing Fallujah,” *The Wall Street Journal*, June 6, 2016. (<https://www.wsj.com/articles/islamic-state-militants-fire-on-civilians-fleeing-fallujah-1465223988>)

18. Matt Bradley and Ghassan Adnan, “Fleeing Residents Detail the Horrors of Ramadi Under Islamic State Rule,” *The Wall Street Journal*, January 1, 2016. (<https://www.wsj.com/articles/fleeing-residents-detail-the-horrors-of-ramadi-under-islamic-state-rule-1451693379>)

19. Eric Schmitt, “U.S. Caution in Strikes Gives ISIS an Edge, Many Iraqis Say,” *The New York Times*, May 26, 2015. ([https://www.nytimes.com/2015/05/27/world/middleeast/with-isis-in-crosshairs-us-holds-back-to-protect-civilians.html?\\_r=0](https://www.nytimes.com/2015/05/27/world/middleeast/with-isis-in-crosshairs-us-holds-back-to-protect-civilians.html?_r=0))

In his capacity as NATO supreme allied commander Europe, General Curtis Scaparrotti called upon NATO member countries in 2019 to hold terrorists accountable for human-shields use. Scaparrotti stated that he considered the use of human shields “an important obstacle for the effectiveness and success of current and future NATO operations and missions.” He explained that NATO’s adversaries, notably in the Middle East, “have not hesitated to use the prohibited practice of human shields as it provides them with undeniable operational advantages.” NATO troops were then “forced to choose between not taking action against legitimate military targets or seeing their actions, and the overall mission, delegitimized.”<sup>20</sup>

Scaparrotti said that “it is essential that further measures be taken at the national level to maximise enforcement of the international legal prohibition of the use of human shields.” Scaparrotti specified that “measures at the national level,” including “criminalisation, robust national criminal law enforcement, active prosecution, imposition of sanctions, international cooperation, and spotlighting violations ... are key in order to deter, hinder, and impose accountability for violations of international law such as the use of human shields” and would “become a major and substantial contribution to the better planning and conduct of NATO operations and missions.”<sup>21</sup>

The United States, its allies, and even the United Nations have condemned terrorist use of human shields. Former U.S. Ambassador to the United Nations Nikki Haley repeatedly criticized the use of human shields by Hezbollah, Hamas, and other terrorist groups.<sup>22</sup> Haley also noted that “Iran is the patron and protector of many of these groups that fight from behind the bodies of innocent civilians.”<sup>23</sup> On June 26, 2018, the UN General Assembly for the first time condemned the use of human shields in its updated “United Nations Global Counter-Terrorism Strategy Review” resolution, which it adopted unanimously.<sup>24</sup>

But Washington and its allies have not sanctioned, prosecuted, or otherwise held specific terrorist groups or their leaders or material supporters accountable for using human shields. Spotlighting and penalizing terrorist use of human shields will help counter the terrorists’ narrative, including by demonstrating that the terrorist group’s officials are war criminals and by helping educate the media and public about the use of human shields and who is responsible for resulting harm to civilians. It may also deter some material supporters from involvement in human-shields use. This could include municipal officials who knowingly provide permits for weapons factories underneath residences or public gathering spots, and businesspersons who knowingly participate in installing weapons factories underneath residences.

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20. Letter from Supreme Allied Commander Europe General Curtis M. Scaparrotti to NATO Secretary General Jens Stoltenberg, March 29, 2019.

21. Ibid.

22. Ambassador Nikki Haley, *Remarks at a UN Security Council Open Debate on the Middle East*, April 26, 2018. (<https://usun.usmission.gov/remarks-at-a-un-security-council-open-debate-on-the-middle-east-5/>); Ambassador Nikki Haley, *Remarks at the Foundation for Defense of Democracies*, April 28, 2018. (<https://www.fdd.org/wp-content/uploads/2018/08/FDD-Summit-Ambassador-Haley.pdf>); “The Latest: US envoy to UN denounces use of ‘human shields,’” *Associated Press*, April 26, 2018. (<https://www.apnews.com/a1a14d18991e401db5bfebf1faa3102>); Laura Koran, Elizabeth Joseph, and Richard Roth, “Haley blasts Iran over civilian deaths in the Middle East,” *CNN*, April 26, 2018. (<https://www.cnn.com/2018/04/26/politics/haley-blasts-iran/index.html>)

23. “The Latest: US envoy to UN denounces use of ‘human shields,’” *Associated Press*, April 26, 2018. (<https://www.apnews.com/a1a14d18991e401db5bfebf1faa3102>)

24. United Nations, Press Release, “General Assembly Unanimously Adopts Resolution Calling for Strong Coordinated Action by Member States to Tackle Terrorism, Violent Extremism Worldwide,” June 26, 2018. (<https://www.un.org/press/en/2018/ga12035.doc.htm>)

## SPECIFIC SANCTIONABLE EXAMPLES OF HUMAN-SHIELDS USE

### HAMAS' USE OF HUMAN SHIELDS

Considerable open-source data demonstrates the extensive use of human shields by Hamas during the March of Return, a campaign launched in spring 2018 that continued until December 2019.<sup>25</sup> The campaign encouraged thousands of Gazans (including women and children) to approach the security barrier and riot near the border with Israel. Several times during the campaign, armed militants used the civilians as cover to attempt to breach the border and enter Israel.<sup>26</sup>

Open-source research provides substantial support for listing two Gaza-based leaders for human-shields use since the date of enactment: Yahya Sinwar, the top Hamas political leader in Gaza, and Khaled al-Batsh, the head of Gaza's National Authority for Return Marches and a senior official in the Palestinian Islamic Jihad. A listing of Sinwar could be accompanied by a listing of Hamas.

#### *Overview of Hamas' Use of Human Shields During the March of Return*

Hamas extensively and flagrantly used human shields as part of the March of Return.<sup>27</sup> Ambassador Haley condemned Hamas for having “used Palestinian civilians as human shields at the boundary fence, seeking to incite violence and overrun the border.”<sup>28</sup> The European Parliament responded to the March of Return clashes with a resolution that both “urge[d] the IDF to refrain from using lethal force against unarmed protestors” and “strongly condemn[ed] the persistent tactic of Hamas of using civilians for the purpose of shielding terrorist activities.”<sup>29</sup>

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25. United Nations Committee on the Exercise of the Inalienable Rights of the Palestinian People, “Two Years On: People Injured and Traumatized During the ‘Great March of Return’ are Still Struggling,” April 6, 2020. (<https://www.un.org/unispal/document/two-years-on-people-injured-and-traumatized-during-the-great-march-of-return-are-still-struggling/>); “Organizers Say Gaza Protests to be Scaled Back,” *Al Jazeera* (Qatar), December 26, 2019. (<https://www.aljazeera.com/news/2019/12/organisers-gaza-protests-scaled-191226134320186.html>); Fares Akram, “With Little to Show, Gazans Question Mass Border Protests,” *Associated Press*, October 11, 2019. (<https://apnews.com/936f882e6aa544a1b36a5d08ff15a3af>)

26. Judah Ari Gross, “IDF Shoots, Kills Palestinian Who Broke Through Gaza Fence,” *The Times of Israel* (Israel), April 3, 2018. (<https://www.timesofisrael.com/palestinians-say-man-shot-dead-by-israeli-troops-on-gaza-border/>); “Two Explosive Devices Brought to Gaza Fence, IDF Says,” *The Jerusalem Post* (Israel), April 8, 2018. (<https://www.jpost.com/Breaking-News/Two-explosive-devices-brought-to-Gaza-fence-IDF-says-549193>); Elior Levy and Yoav Zitun, “IDF Faces Third Straight Week of Gaza Border Protests,” *Ynet* (Israel), April 13, 2018. (<https://www.ynetnews.com/articles/0,7340,L-5229186,00.html>); “Israeli Military Kills Three Palestinians Along Gaza Strip Border,” *Reuters*, April 29, 2018. (<https://www.reuters.com/article/us-israel-palestinians-violence/israeli-military-kills-three-palestinians-along-gaza-strip-border-idUSKBN1I00V4>); Yaniv Kubovich, “Three Palestinians Killed by Israeli Army After Trying to Breach Gaza Border,” *Haaretz* (Israel), April 29, 2018. (<https://www.haaretz.com/israel-news/idf-two-palestinians-tried-to-cross-into-israel-from-gaza-one-killed-1.6035677>); Anna Ahronheim, “IDF Releases Details of How it Prevented a Hamas Border Crossing from Gaza,” *The Jerusalem Post* (Israel), May 15, 2018. (<https://www.jpost.com/Arab-Israeli-Conflict/IDF-releases-details-of-how-it-prevented-a-Hamas-border-crossing-from-Gaza-556484>); Yoav Zitun, “Explosive Device Thrown at IDF Force North of Gaza As Border Clashes Resume,” *Ynet* (Israel), May 25, 2018. (<https://www.ynetnews.com/articles/0,7340,L-5270757,00.html>)

27. “Organizers Say Gaza Protests to be Scaled Back,” *Al Jazeera* (Qatar), December 26, 2019. (<https://www.aljazeera.com/news/2019/12/organisers-gaza-protests-scaled-191226134320186.html>); Fares Akram, “With Little to Show, Gazans Question Mass Border Protests,” *Associated Press*, October 11, 2019. (<https://apnews.com/936f882e6aa544a1b36a5d08ff15a3af>)

28. Ambassador Nikki Haley, *Remarks at a UN General Assembly Special Session on the Situation in Gaza*, June 13, 2018. (<https://usun.state.gov/remarks/8477>)

29. European Parliament, “European Parliament Resolution of 19 April 2018 on the Situation in the Gaza Strip,” (<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2018-0176&language=EN&ring=P8-RC-2018-0191>)

Several statements by Yahya Sinwar, the top Hamas political leader in Gaza since February 2017, make clear that Hamas' policy since the beginning of the March of Return was to knowingly use civilians protected as such by the law of war to shield militants from attack. While these statements were made in spring 2018, when the March of Return began, the March of Return continued until December 2019. Sinwar continues to serve as the top Hamas political leader in Gaza, and there is no evidence that this Hamas policy changed as the protests persisted. Indeed, there is strong evidence that the policy continued. Thus, these policy statements can be used to attribute responsibility for human-shields use in March of Return activities since the Shields Act's date of enactment.

Sinwar declared in spring 2018 that the March was designed to generate civilian casualties, stating, "When we decided to embark on these marches, we decided to turn that which is most dear to us – the bodies of our women and children – into a dam blocking the collapse in Arab reality, a dam to prevent the racing of many Arabs towards the normalization of ties with the plundering entity."<sup>30</sup>

Sinwar boasted that the plan worked, as "our people have imposed their agenda upon the whole world," forcing onto "the world's television screens ... the sacrifice of their [Palestinian] children as an offering for Jerusalem and the Right of Return."<sup>31</sup> In a speech about the March, given to hundreds of Gazan youths, Sinwar took credit for "leading" the March and said Hamas leaders "are ready to die along with tens of thousands" of other Gazans as the March continues.<sup>32</sup> Sinwar even admitted that some of the marchers were fighters masquerading as civilians, stating, "[T]hese youth and men ... many of them took off their military uniforms."<sup>33</sup>

Sinwar also confirmed that the March of Return was not designed as a peaceful protest near the border, but rather as an attempt to breach the border, stating, "We will take down the border and we will tear out their hearts from their bodies."<sup>34</sup> He also said, "[T]he March of Return will continue, it will not stop until we remove this transient border."<sup>35</sup>

Hamas' efforts to use the March of Return as a cover to breach the border reached a peak on May 14, 2018, when, according to *The New York Times*, "a mass attempt by Palestinians to cross the border fence separating Israel from Gaza turned violent" and the IDF "used barrages of tear gas as well as live gunfire to keep protesters from entering Israeli territory." Lieutenant Colonel Jonathan Conricus, an IDF spokesman, told the *Times* that at least three

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30. Yahya Sinwar, "Our People Took Off Their Military Uniforms And Joined The Marches; They Have Imposed Their Agenda Upon The Whole World; We Decided To Turn The Bodies Of Our Women And Children Into A Dam Blocking Arab Collapse," *Interview with Al Jazeera TV*, May 18, 2018. (Available at: <https://www.memri.org/reports/hamas-leader-gaza-yahya-sinwar-our-people-took-their-military-uniforms-and-joined-marches>)

31. *Ibid.*

32. "Hamas leader: Next week's border protests will be 'decisive,'" *The Times of Israel* (Israel), May 9, 2018. (<https://www.timesofisrael.com/hamas-leader-next-weeks-border-protests-will-be-decisive/>)

33. Yahya Sinwar, "Our People Took Off Their Military Uniforms And Joined The Marches; They Have Imposed Their Agenda Upon The Whole World; We Decided To Turn The Bodies Of Our Women And Children Into A Dam Blocking Arab Collapse," *Interview with Al Jazeera TV*, May 18, 2018. (Available at: <https://www.memri.org/reports/hamas-leader-gaza-yahya-sinwar-our-people-took-their-military-uniforms-and-joined-marches>)

34. Legal Insurrection, "Hamas leader Yahya Sinwar - We Will Tear Out Their Hearts - April 6, 2018," *YouTube*, April 8, 2019. (<https://www.youtube.com/watch?v=klFbf6VG7uA>)

35. Khaled Abu Toameh, "Hamas Head Sinwar Says Border Protests Will Continue Until Border is Erased," *The Times of Israel* (Israel), March 30, 2018. (<https://www.timesofisrael.com/hamas-head-sinwar-says-gaza-protests-will-continue-until-border-erased/>)

separate teams of armed Hamas fighters “tried to use the commotion and smoke and dynamics of the riots as concealment, and then launched an attack on the fence.”<sup>36</sup>

*The New York Times* said the charge to the border “was often led by women dressed in black, waving Palestinian flags and urging others to follow.”<sup>37</sup> Hamas announced that of 62 Gazans killed that day by Israeli forces, “50 of them are from Hamas and 12 from the people.”<sup>38</sup>

### ***Hamas’ March of Return Human-Shields Use Since Date of Enactment***

Based on open-source research, the following uses of human-shields took place in Gaza after the enactment of the Shields Act on December 21, 2018:

- In February 2019, Hamas reportedly sent children as young as eight to the front lines of the March of Return border protests and via loudspeaker promised children at the border 300 shekels (\$83) if they sustained injuries.<sup>39</sup>
- In March and May 2019, the Hamas-run education ministry in the Gaza Strip canceled school for a day to encourage children to participate in the March of Return.<sup>40</sup> In a letter to the UN Security Council and UN Secretary-General António Guterres, Israeli Ambassador to the United Nations Danny Danon wrote, “Hamas has cancelled school on 30 March so that children will be free to attend the riots. As always, Hamas will exploit these children as human shields and compensate the rioters and their families, should they suffer injuries.”<sup>41</sup>
- The Israeli military also stated as follows regarding a school closure on May 15, 2019: “IDF intelligence can confirm that Hamas has cancelled schools in Gaza tomorrow in order to send the children to participate in violent riots against Israel... The Hamas militant group in #Gaza distributed this message at 2:19pm local time via radio stations, TV stations, and on Twitter.”<sup>42</sup>

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36. David M. Halbfinger, Isabel Kershner, and Declan Walsh, “Israel Kills Dozens at Border as U.S. Embassy Opens in Jerusalem,” *The New York Times*, May 14, 2018. (<https://www.nytimes.com/2018/05/14/world/middleeast/gaza-protests-palestinians-us-embassy.html>)

37. Ibid.

38. Ian Lee and Salma Abdelaziz, “Hamas Claims 50 of its Members Died in Monday’s Clashes in Gaza,” *CNN*, May 16, 2018. (<https://edition.cnn.com/2018/05/16/middleeast/hamas-members-gaza-deaths/index.html>)

39. Adam Rasgon, “IDF: Gaza Children Being Promised NIS 300 (\$83) if Injured at Border Protests,” *The Times of Israel* (Israel), February 21, 2019. (<https://www.timesofisrael.com/idf-gaza-children-being-promised-nis-300-if-injured-at-border-protests/>)

40. “Hamas Cancels School on Saturday so Gaza Kids Can Join Border Protests,” *The Times of Israel* (Israel), March 27, 2019. ([https://www.timesofisrael.com/liveblog\\_entry/hamas-cancels-school-on-saturday-so-gaza-kids-can-join-border-protests/](https://www.timesofisrael.com/liveblog_entry/hamas-cancels-school-on-saturday-so-gaza-kids-can-join-border-protests/))

41. “Hamas Plans to Use Children as Human Shields in Mass Border Riots This Weekend, Israeli UN Envoy Warns,” *The Algemeiner*, March 29, 2019. (<https://www.algemeiner.com/2019/03/29/hamas-plans-to-use-children-as-human-shields-in-mass-border-riots-this-weekend-israeli-un-envoy-warns/>)

42. @IDF, “BREAKING: IDF intelligence can confirm that Hamas has cancelled schools in Gaza tomorrow in order to send the children to participate in violent riots against Israel.” *Twitter*, May 24, 2019. (<https://twitter.com/IDF/status/1128398585807163399>); @IDF, “The Hamas militant group in #Gaza distributed this message at 2:19pm local time via radio stations, TV stations, and on *Twitter*.” *Twitter*, May 14, 2019. (<https://twitter.com/IDF/status/1128398588663480320>); @IDF, “During the hours of the riots tomorrow, weather in #Gaza is expected to be around 80 degrees Fahrenheit. This heat is a danger to children, who are susceptible to dehydration & heat-stroke. We call on Hamas to keep their children in school & not endanger them at the riots.” *Twitter*, May 14, 2019. (<https://twitter.com/IDF/status/1128398590756438016>); Talia Kaplan, “Hamas Cancels Classes in Gaza to Send Children to ‘Riot’ Against Israel, IDF Says,” *Fox News*, May 14, 2019. (<https://www.foxnews.com/world/idf-hamas-cancels-classes-gaza-children-riot-against-israel>)

- The Associated Press reported in October 2019 that “on days before protests, vehicles with loudspeakers mounted on their roofs tour Gaza streets and mosques urging families to head to the fence.”<sup>43</sup>
- The organizers of the March of Return labeled the October 11, 2019, protests as “Our Child Martyrs” day. The prior day, the UN coordinator for Palestinian humanitarian affairs, Jamie McGoldrick, said, “I am concerned that the demonstrations’ organizers have branded tomorrow’s protests as ‘Our Child Martyrs,’ which may push boys and girls to put themselves at risk.”<sup>44</sup> McGoldrick also said, “I call upon Hamas to uphold its responsibility to ensure the safety of children in Gaza, including by preventing them from being exposed to the risk of violence, or from being used as instruments of political action.”<sup>45</sup>
- On October 13, 2019, the head of Gaza’s National Authority for Return Marches, Khaled al-Batsh, inaugurated a children’s park titled the “Return Park,” located meters from the border fence in East Gaza City, in the buffer zone that Israel forbids Palestinians from entering.<sup>46</sup> The park includes playground equipment, lawns, gardens, and a promenade designed for children and families.<sup>47</sup> According to Talal Abu Zarifeh of the National Authority for Return Marches, “the aim behind establishing the park is encouraging a human presence in border areas... [It is unlikely that Israel is] bold enough to shoot at people in the park.” Iyad al-Qarra, a writer for the Hamas-affiliated newspaper *Felesteen*, said that the constant motion of people visiting the park would “exhaust” Israeli soldiers deployed along the border to track people’s movements.<sup>48</sup>

## **Yahya Sinwar**

Yahya Sinwar has served as the top Hamas political leader in Gaza since February 2017.<sup>49</sup> In September 2015, the State Department designated Sinwar as a Specially Designated Global Terrorist.<sup>50</sup> However, Sinwar is not on the

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 43. Fares Akram, “With Little to Show, Gazans Question Mass Border Protests,” *Associated Press*, October 11, 2019. (<https://apnews.com/936f882e6aa544a1b36a5d08ff15a3af>)

44. Tovah Lazaroff, “U.N. Rebukes Hamas for Planning to Risk Children’s Lives Gaza Border Protest,” *The Jerusalem Post* (Israel), October 10, 2019. (<https://www.jpost.com/International/UN-rebukes-Hamas-for-planning-to-risk-childrens-lives-Gaza-border-protest-604274>)

45. Humanitarian Coordinator Jamie McGoldrick, United Nations Office for the Coordination of Humanitarian Affairs, Press Statement, “Statement of the Humanitarian Coordinator, Mr. Jamie McGoldrick, calling for the protection of children in the Gaza Strip,” October 10, 2019. (<https://www.ochaopt.org/content/statement-humanitarian-coordinator-mr-jamie-mcgoldrick-calling-protection-children-gaza>);

Tovah Lazaroff, “U.N. Rebukes Hamas for Planning to Risk Children’s Lives Gaza Border Protest,” *The Jerusalem Post* (Israel), October 10, 2019. (<https://www.jpost.com/International/UN-rebukes-Hamas-for-planning-to-risk-childrens-lives-Gaza-border-protest-604274>)

46. Rasha Abou Jalal, “New Park Opens in Gaza Near Israel Border,” *Al-Monitor*, October 29, 2019. (<https://www.al-monitor.com/pulse/originals/2019/10/palestinian-return-marches-park-gaza-israel-border.html>)

47. “A Bloody 24 Hours In Israel,” *Israel Street* (Israel), October 13, 2019. (<http://israelstreet.org/2019/10/13/bloody-24-hours-israel/>); “State of Palestine: ‘The Return’ playground opens in Gaza near border protests’ site,” *Ruptly* (Russia), October 14, 2019. ([https://www.youtube.com/watch?v=v5\\_60tP3SLM](https://www.youtube.com/watch?v=v5_60tP3SLM))

48. Rasha Abou Jalal, “New Park Opens in Gaza Near Israel Border,” *Al-Monitor*, October 29, 2019. (<https://www.al-monitor.com/pulse/originals/2019/10/palestinian-return-marches-park-gaza-israel-border.html>)

49. Rory Jones and Abu Bakr Bashir, “Hamas Puts Militant Yahya Sinwar in Charge of Gaza,” *The Wall Street Journal*, February 13, 2017. (<https://www.wsj.com/articles/hamas-puts-militant-yahya-sinwar-in-charge-of-gaza-1487001168>)

50. U.S. Department of State, Press Release, “Terrorist Designations of Yahya Sinwar, Rawhi Mushtaha, and Muhammed Deif,” September 8, 2015. (<https://web.archive.org/web/20170114025502/https://www.state.gov/r/pa/prs/ps/2015/09/246686.htm>); U.S. Department of the Treasury, Office of Foreign Assets Control, “Specially Designated Nationals and Blocked Persons List,” accessed October 9, 2020, page 195. (<https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/consolidated.aspx>); U.S. Department of State, “Individuals and Entities Designated by the State Department Under E.O. 13224,” accessed October 9, 2020. (<https://www.state.gov/j/ct/rls/other/des/143210.htm>)

EU terrorist list (which includes Hamas)<sup>51</sup> or the UK terrorist list (which does not include the non-military wing of Hamas).<sup>52</sup>

Although Sinwar issued his most damning public statements prior to the Shields Act's date of enactment, the March of Return continued until December 2019,<sup>53</sup> and Sinwar continues to serve as the top political leader in Gaza. Sinwar's comments prior to the date of enactment, and his continuous leadership of Hamas since then, provide grounds for listing him for involvement in these Hamas uses of human shields. In addition, U.S. government analysts should be able to identify relevant post-enactment open-source or other statements made by Sinwar as well as other post-enactment human-shields uses linked to him.

Designating and sanctioning Sinwar and other Hamas leaders for their human-shields use – a war crime under international law – could lead to follow-on sanctions by the European Union, the United Kingdom, and other U.S. allies. Naming Sinwar and other leaders of Hamas' "political" wing for human-shields violations would help counter the flawed view (reflected, for example, in UK policy)<sup>54</sup> that Hamas political leaders are separate from the group's military wing, less involved in objectionable activity, and should not be sanctioned.

Singling them out would also help counter the Hamas narrative, demonstrating that Hamas' leaders are war criminals and helping educate the media and public about human-shields use and who is responsible for resulting harm to civilians.

### ***Khaled al-Batsh***

Khaled al-Batsh founded the National Authority for Return Marches in March 2018.<sup>55</sup> The National Authority was established by agreement between Hamas, Fatah, Palestinian Islamic Jihad (PIJ), and other groups and continues to be run by representatives of those groups (other than Fatah, which dropped out).<sup>56</sup> Batsh headed the National

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51. European Council and Council of the European Union, "EU Terrorist List," accessed October 9, 2020. (<http://www.consilium.europa.eu/en/policies/fight-against-terrorism/terrorist-list/>)

52. UK HM Treasury, Office of Financial Implementation, "Consolidated List of Financial Sanctions Targets in the UK," accessed October 9, 2020. (<https://ofsistorage.blob.core.windows.net/publishlive/ConList.html>)

53. "Organizers Say Gaza Protests to be Scaled Back," *Al Jazeera* (Qatar), December 26, 2019. (<https://www.aljazeera.com/news/2019/12/organisers-gaza-protests-scaled-191226134320186.html>); Fares Akram, "With Little to Show, Gazans Question Mass Border Protests," *Associated Press*, October 11, 2019. (<https://apnews.com/936f882e6aa544a1b36a5d08ff15a3af>)

54. UK Home Office, "Proscribed Terrorist Organisations," July 17, 2020. ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/795457/Proscription\\_website.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/795457/Proscription_website.pdf))

55. "Nature and Functioning of the Supreme National Authority of the Return Marches and Lifting the Siege," *Meir Amit Intelligence and Information Center*, April 18, 2019. (<https://www.terrorism-info.org.il/en/nature-functioning-supreme-national-authority-return-marches-lifting-siege/>); Khaled Abu Toameh, "Palestinians Call for Mass Gaza Protests on Saturday," *The Jerusalem Post* (Israel), March 28, 2019. (<https://www.jpost.com/Arab-Israeli-Conflict/gaza-news/Palestinians-call-for-mass-Gaza-border-protests-on-Saturday-585054>)

56. "Nature and Functioning of the Supreme National Authority of the Return Marches and Lifting the Siege," *Meir Amit Intelligence and Information Center*, April 18, 2019. (<https://www.terrorism-info.org.il/en/nature-functioning-supreme-national-authority-return-marches-lifting-siege/>); "Palestinian groups cancel mass Gaza rallies over coronavirus concerns," *Reuters*, March 28, 2020. (<https://www.reuters.com/article/health-coronavirus-israel-palestinians/palestinian-groups-cancel-mass-gaza-rallies-over-coronavirus-concerns-idUSL8N2BL0BG>); Khaled Abu Toameh, "Palestinians call for mass Gaza border protests on Saturday," *The Jerusalem Post* (Israel), March 28, 2019. (<https://www.jpost.com/arab-israeli-conflict/gaza-news/palestinians-call-for-mass-gaza-border-protests-on-saturday-585054>); Rasha Abou Jalal, "New park opens in Gaza near Israel border," *Al-Monitor*, October 29, 2019. (<https://www.al-monitor.com/pulse/originals/2019/10/palestinian-return-marches-park-gaza-israel-border.html>)

Authority until at least October 2019<sup>57</sup> and is a senior PIJ official.<sup>58</sup> He should therefore be listed and sanctioned under the mandatory authority of the Shields Act, which requires action against “each foreign person or agency or instrumentality of a foreign state that the President determines ... knowingly and materially supports, orders, controls, directs, or otherwise engages in” the use of human shields by Hamas.

## **HEZBOLLAH’S USE OF HUMAN SHIELDS**

### ***Evidence Revealed in Connection With Netanyahu Speech on September 29, 2020***

In a September 29, 2020, speech to the UN General Assembly, and in associated materials released by the Israeli government, Israeli Prime Minister Benjamin Netanyahu specified three Beirut locations where Hezbollah missile factories are operating near or underneath civilian residences.

The IDF described one Hezbollah factory for producing precision-guided missiles (PGMs) as located underneath a seven-story apartment building home to 70 families in Beirut’s Laylaki neighborhood. A second Hezbollah factory identified by the IDF produces PGMs underneath a five-story apartment building home to 50 families in Beirut’s Chouaifet neighborhood. A third Hezbollah PGM factory was described as located in Beirut’s Janah neighborhood, near civilian homes and adjacent to two gas companies (one just a meter away) and a gas station.<sup>59</sup> The location of missile factories underneath and near civilian residences and adjacent to fuel tanks provides exceptionally strong evidence for a human-shields designation.

PGMs<sup>60</sup> are equipped with advanced navigation systems, which could enable them to evade Israeli missile defense systems and strike targets with an accuracy of a few meters. Because they are significantly more precise than unguided Hezbollah missiles, which often miss their targets, they are particularly dangerous to Israel. After unsuccessful attempts to transfer ready-to-use PGMs, Iran has been sending PGM parts to Hezbollah for assembly at locations such as these in Lebanon.<sup>61</sup>

Shortly after Netanyahu’s speech, in an effort to debunk his claims, Hezbollah gave journalists a tour of the Janah site. Video of the tour showed that the site is indeed a missile factory, with missile production machines clearly

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57. Rasha Abou Jalal, “New park opens in Gaza near Israel border,” *Al-Monitor*, October 29, 2019. (<https://www.al-monitor.com/pulse/originals/2019/10/palestinian-return-marches-park-gaza-israel-border.html>)

58. “Khaled al-Batsh,” *European Council on Foreign Relations*, accessed October 9, 2020. ([https://www.ecfr.eu/mapping\\_palestinian\\_politics/detail/khaled\\_al\\_batsh](https://www.ecfr.eu/mapping_palestinian_politics/detail/khaled_al_batsh)); “Islamic Jihad leader warns of escalation if Israel doesn’t meet understandings,” *The Times of Israel* (Israel), May 11, 2019. (<https://www.timesofisrael.com/islamic-jihad-leader-warns-of-escalation-if-israel-doesnt-meet-understandings/>); “Nature and Functioning of the Supreme National Authority of the Return Marches and Lifting the Siege,” *Meir Amit Intelligence and Information Center*, April 18, 2019. (<https://www.terrorism-info.org.il/en/nature-functioning-supreme-national-authority-return-marches-lifting-siege/>).

59. Israel Defense Forces, “Exposed: Three Hezbollah Missile Sites in Beirut,” October 5, 2020. (<https://www.idf.il/en/minisites/hezbollah/exposed-three-hezbollah-missile-sites-in-beirut/>)

60. Jonathan Schanzer, “The New Rocket Threat to Israel,” *Commentary*, January 2020. (<https://www.commentarymagazine.com/articles/jonathan-schanzer/the-new-rocket-threat-to-israel/>)

61. Israel Defense Forces, “Exposed: Three Hezbollah Missile Sites in Beirut,” October 5, 2020. (<https://www.idf.il/en/minisites/hezbollah/exposed-three-hezbollah-missile-sites-in-beirut/>)

visible.<sup>62</sup> Identifiable equipment included rolling machines used to form metal cylinders, including engine and warhead casings; laser and hydraulic cutting machines used to cut metal into needed dimensions for missile stabilization fins and warheads; and a bending machine used to shape the metal of missile engine casings, warheads, and navigation component housings.<sup>63</sup>

The video also showed (and Israeli officials subsequently named) a Hezbollah operative at the factory: Mohammad Kamel Fouad Rammal (a.k.a. Rimal), the site manager.<sup>64</sup> This is compelling open-source evidence.

### ***Context and Key Steps to Hezbollah Designations for Human-Shields Use***

The Shields Act requires the president to submit to Congress a list of each foreign person involved in Hezbollah's or Hamas' use of "civilians protected as such by the law of war to shield military objectives from attack." The president is also required to impose sanctions on each person on the list. In light of the threat posed to Israel by these PGM factories, they are a legitimate objective for the Israeli military. Hezbollah's use of civilians to shield such legitimate military objectives from lawful attack or to deliberately cause civilian casualties is a war crime in violation of the Fourth Geneva Convention and customary international law.<sup>65</sup>

In addition, Hezbollah is reportedly preparing to rely heavily on the use of human shields in a future conflict with Israel.<sup>66</sup> In January 2018, IDF Spokesman Brigadier General Ronen Manelis asserted, "[O]ne in every three or four houses in southern Lebanon is a headquarters, a post, a weapons depot or a Hezbollah hideout."<sup>67</sup> The IDF has also published on its website specific examples of current preparations by Hezbollah to use human shields.<sup>68</sup>

However, while Hamas leaders are quite open about their use of human shields, Hezbollah leaders have been far more careful. There appear to be few, if any, open-source quotes from Hezbollah leaders acknowledging their use of human shields. Policymakers will need to collect the necessary additional information through intelligence channels.

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62. @IDF, "Turns out you need more than one hour to evacuate a Precision Guided Missile (PGM) manufacturing site, so Hezbollah hoped the reporters just wouldn't notice. Well... we did. Here's what was hiding in plain sight:" *Twitter*, October 2, 2020. (<https://twitter.com/IDF/status/1312037651743113218>); Judah Ari Gross, "IDF: Clip from Hezbollah tour of Beirut 'workshop' proves it's a missile factory," *The Times of Israel* (Israel), October 2, 2020. (<https://www.timesofisrael.com/idf-says-clip-from-hezbollah-tour-of-workshop-proves-it-is-a-missile-factory/>)

63. @IDF, "Turns out you need more than one hour to evacuate a Precision Guided Missile (PGM) manufacturing site, so Hezbollah hoped the reporters just wouldn't notice. Well... we did. Here's what was hiding in plain sight:" *Twitter*, October 2, 2020. (<https://twitter.com/IDF/status/1312037651743113218>)

64. @IDF, "Turns out you need more than one hour to evacuate a Precision Guided Missile (PGM) manufacturing site, so Hezbollah hoped the reporters just wouldn't notice. Well... we did. Here's what was hiding in plain sight:" *Twitter*, October 2, 2020. (<https://twitter.com/IDF/status/1312037651743113218>); Judah Ari Gross, "IDF: Clip from Hezbollah tour of Beirut 'workshop' proves it's a missile factory," *The Times of Israel* (Israel), October 2, 2020. (<https://www.timesofisrael.com/idf-says-clip-from-hezbollah-tour-of-workshop-proves-it-is-a-missile-factory/>)

65. Geneva Convention IV, Article 28, quoted in International Committee of the Red Cross, "Practice Relating to Rule 97. Human Shields," *Customary International Humanitarian Law Database*, accessed October 9, 2020. ([https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2\\_rul\\_rule97](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule97))

66. See, for example: Tom O'Connor, "Israel's Next War on Lebanon Will Kill Civilians, Air Force Commander Says," *Newsweek*, June 22, 2017. (<http://www.newsweek.com/israel-next-war-lebanon-kill-civilians-air-force-628321>)

67. Anna Ahronheim, "IDF Spokesman Warns Lebanon of War with Israel if Iranian Presence Grows," *The Jerusalem Post* (Israel), January 28, 2018. (<http://www.jpost.com/Arab-Israeli-Conflict/IDF-Spokesman-warns-Lebanon-of-war-with-Israel-if-Iranian-presence-grows-540009>)

68. Israel Defense Forces, "Hezbollah's Use of Human Shields," accessed October 12, 2020. (<https://www.idf.il/en/minisites/hezbollah/hezbollah/hezbollahs-use-of-human-shields/>)

Washington could use a combination of open-source and intelligence information to list and penalize the following categories of persons involved in such missile factories underneath or adjacent to civilian sites since the Shield Act's enactment: Hezbollah officials (in addition to Rammal) who knowingly ordered, controlled, or otherwise directed the use of such locations; municipal officials who knowingly provided permits for construction of missile factories underneath or next to such civilian locations; and businesspersons who knowingly and materially supported construction of such factories.

The intelligence community should also review for designation senior Hezbollah leaders likely involved in Hezbollah's use of human shields: Hassan Nasrallah (secretary-general), Hashim Safi al-Din/Hashem Safieddine (head of the Executive Council), Nabil Qaouq (deputy head of the Executive Council), Fu'ad Shukr (senior military official), Wafiq Safa (senior security official), and Ahmad Safieddine (senior south Lebanon official).

Intelligence information could also help make the case that Iran fits the Shields Act's criteria for listing as a "foreign state that ... knowingly and materially supports, orders, controls, directs, or otherwise engages in" human-shields use by Hezbollah. It may well be possible to make such a case, as Iran has reportedly been sending PGM parts to Hezbollah for assembly at locations such as the Janah, Laylaki, and Chouaifet sites.<sup>69</sup> In addition, Israel has said that Rammal was "manufacturing precision-guided missiles in cooperation with Iranian forces," and that "as part of his role, he visited Iran a number of times."<sup>70</sup>

Apart from the legal requirements of the Shields Act, there are strong policy reasons to hold Hezbollah accountable for human-shields use. Hezbollah's use of human shields puts civilians in danger of explosives accidents, such as those that decimated the Port of Beirut in August<sup>71</sup> and detonated a Hezbollah arms depot in the Lebanese village of Ain Qana a few weeks later.<sup>72</sup>

In addition, a formal U.S. government determination that Hezbollah is engaging in a war crime through the use of human shields could strengthen the argument for the European Union to designate Hezbollah as a terrorist group.<sup>73</sup> This argument is made more compelling by recently publicized discoveries that Hezbollah has been storing large quantities of ammonium nitrate, a bomb-making ingredient, in various European countries.<sup>74</sup>

Imposing Shields Act sanctions on Hezbollah in response to its clear recent violations would also be an important first step toward countering human-shields use against the U.S. and allied militaries by groups such as the Islamic

69. Israel Defense Forces, "Exposed: Three Hezbollah Missile Sites in Beirut," October 5, 2020. (<https://www.idf.il/en/minisites/hezbollah/exposed-three-hezbollah-missile-sites-in-beirut/>)

70. Judah Ari Gross, "IDF: Clip from Hezbollah tour of Beirut 'workshop' proves it's a missile factory," *The Times of Israel* (Israel), October 2, 2020. (<https://www.timesofisrael.com/idf-says-clip-from-hezbollah-tour-of-workshop-proves-it-is-a-missile-factory/>)

71. Nada Homsy and Merrit Kennedy, "Huge Fire At Beirut's Port Causes Panic Following Last Month's Explosion," *NPR*, September 10, 2020. (<https://www.npr.org/2020/09/10/911416505/huge-fire-at-beiruts-port-causes-panic-following-last-month-s-explosion>)

72. Lahav Harkov, "Netanyahu, in UN speech, warns of more Hezbollah peril for Beirut," *The Jerusalem Post* (Israel), September 30, 2020. (<https://www.jpost.com/israel-news/netanyahu-at-un-points-to-beiruts-next-explosive-risk-from-hezbollah-643887>); "Hezbollah arms depot explodes in Lebanon," *TV7 Israel News* (Israel), September 23, 2020. (<https://www.tv7israelnews.com/hezbollah-arms-depot-explodes-in-lebanon/>)

73. Laurenz Gehrke, "Hundreds of lawmakers call on EU to ban Hezbollah," *Politico*, July 17, 2020. (<https://www.politico.eu/article/the-eu-must-ban-hezbollah-lawmakers-warn-in-transatlantic-unison/>)

74. Toby Dershowitz and Dylan Gresik, "Hezbollah's History with Ammonium Nitrate: The Danger to Europe," *Foundation for Defense of Democracies*, September 25, 2020. (<https://www.fdd.org/analysis/2020/09/25/hezbollah-ammonium-nitrate-europe/>)

State and the Taliban. In his 2019 request to NATO member countries, General Scaparrotti, in his capacity as NATO supreme allied commander Europe, said, “[I]t is essential that further measures be taken at the national level to maximise enforcement of the international legal prohibition of the use of human shields.” Scaparrotti specifically urged “imposition of sanctions” and “spotlighting of violations.” In light of the frequency and effectiveness of human-shields use against NATO forces, Scaparrotti said that such national measures “would decidedly become a major and substantial contribution” to NATO operations.<sup>75</sup>

Imposing sanctions on Hezbollah for using human shields would set a strong U.S. example for its NATO partners of taking action on these requests from the NATO supreme allied commander Europe. It would also hopefully pave the way for the U.S. government’s collection and deployment of sufficient evidence to impose Shields Act sanctions on the Islamic State and Taliban for their human-shields uses since the date of enactment (December 21, 2018).

It has been nearly two years since the Shields Act became law. Despite considerable prior evidence of human-shields use by terrorist groups, the Trump administration has yet to impose any sanctions under the law. It is time for the U.S. government to use the Shields Act to hold terrorists and their material supporters publicly accountable for the war crime of using human shields.

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75. Letter from Supreme Allied Commander Europe General Curtis M. Scaparrotti to NATO Secretary General Jens Stoltenberg, March 29, 2019.