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Q & A on recent developments relating to the UN Independent Commission of Inquiry on the 2014 Gaza Conflict

What is Amnesty International's response to Professor Schabas' resignation as Chair of the Commission of Inquiry, and Israeli calls for the Commission's as-yet-unpublished report to be "shelved"?

Amnesty International has been engaging with the [UN Independent Commission of Inquiry on the 2014 Gaza Conflict](#) since shortly after it was established in August 2014, following a [resolution](#) adopted by the Human Rights Council at its 21st special session on 23 July 2014 with 29 votes in favour, 17 abstentions, and one (the USA) opposed. The Commission of Inquiry has consistently interpreted its mandate to investigate violations committed in the context of the military operations conducted since 13 June 2014 to cover "the activities of Palestinian armed groups in Gaza, including attacks on Israel, as well the Israeli military operation in the Gaza Strip and Israeli actions in the West Bank including East Jerusalem." Amnesty International and various other international human rights organizations, as well as Israeli and Palestinian human rights organizations, have submitted information to the Commission concerning violations and abuses committed by both sides.

The Commission has also heard directly from witnesses and victims in the Gaza Strip, the West Bank, and Israel. Due to the Israeli government's refusal to co-operate with the Commission to date, including by allowing its members to enter Israel or the Occupied Palestinian Territories, the Commission has met with witnesses and victims from both sides in [Amman](#) and [Geneva](#), as well as using technology to interview individuals and organizations with information about violations committed during the conflict.

The report of any Commission of Inquiry is far more than the work of any one person, including its Chair. The Commission of Inquiry has a dedicated professional staff, including legal, military, and medical experts, as well as specialists in children's and women's rights, and is also supported by staff of the Office of the High Commissioner for Human Rights in Geneva, Ramallah, and the Gaza Strip. The most recent [report](#) by the High Commissioner for Human Rights to the Human Rights Council includes information

on violations and abuses by Israeli forces and Palestinian armed groups during the July/August 2014 conflict, and assesses efforts by the Israeli and Palestinian authorities to investigate alleged violations and ensure accountability.

Amnesty International rejects the Israeli government's attempts to paint the Commission of Inquiry as fundamentally biased because of one technical legal opinion issued by one of its members. We note that since the establishment of the Commission, the Israeli government has refused to co-operate with it, and has denied the Commission's investigators access to the Gaza Strip through the Erez Crossing despite the Commission's repeated requests. The Israeli authorities also continue to deny access to the Gaza Strip to other independent human rights investigators, including Amnesty International. Israel's refusal to work with the Commission and its public smear campaign against the Commission, the Human Rights Council, and Professor Schabas personally should be seen as part of a sustained pattern of Israeli non-cooperation with UN mechanisms and investigatory committees.

There are also disturbing reports that Professor Schabas received death threats during his time on the Commission. Amnesty International condemns any attempts to threaten or intimidate any member of a UN-appointed body for his or her work, including any such threats against Professor Schabas. All countries, including Israel, should publicly condemn any such threats.

Amnesty International [recalls](#) that in April 2011, Prime Minister Benjamin Netanyahu and Foreign Minister Avigdor Liberman made similar calls for the report of the UN Fact-Finding Mission on Gaza Conflict to be withdrawn, following publication of an opinion piece by Justice Richard Goldstone. Justice Goldstone chaired the Fact-Finding Mission that documented serious violations of international humanitarian law, including war crimes, by both sides during the 2008-2009 Israel/Gaza conflict. The Israeli government must not be allowed to sabotage a UN-mandated investigation into the most recent Israel/Gaza conflict, and the Commission of Inquiry must receive all the support it requires to finish its crucial work. Any calls for the Commission's work or report to be "shelved" are calls to avoid accountability and should be resolutely rejected by the Human Rights Council and the international community.

What is Amnesty International's position on violations committed during the 2014 Israel/Gaza conflict?

Amnesty International has documented war crimes and other serious violations of international humanitarian law by both Israeli forces and Palestinian armed groups during the July/August 2014 conflict, including unlawful killings of civilians and destruction of civilian property, as well as other serious violations and abuses of human rights. Amnesty International has published reports documenting Israel's attacks on [inhabited civilian homes](#), [landmark buildings](#), and [hospitals and medical workers](#) in the Gaza Strip during the conflict; each report included testimonies and analysis pointing to war crimes. Palestinian armed groups operating in the Gaza Strip fired thousands of [indiscriminate rockets and mortars](#) into Israel; firing munitions which cannot be aimed accurately into civilian areas is a war crime, and statements by Hamas and Palestinian armed groups also indicate that some attacks were intended to kill or injure civilians. Amnesty International

has repeatedly condemned these unlawful attacks by Palestinian armed groups, and an upcoming report will provide further documentation. Amnesty International also [condemned](#) the summary killings and executions of alleged “collaborators” in Gaza by Hamas forces during the conflict; these will be the subject of another upcoming report.

Amnesty International has [welcomed](#) Palestine’s accession to the ICC as an important step towards justice and accountability for victims on both sides, and its submission of a declaration to the ICC Prosecutor accepting retroactive jurisdiction from 13 June 2014 under Article 12(3) of the Rome Statute, while noting that the time period covered in the declaration is unnecessarily narrow. Finally, Amnesty International has condemned retaliatory measures and threats against the Palestinian authorities for pursuing international justice mechanisms, and [welcomed](#) the ICC Prosecutor’s announcement opening a preliminary examination into the situation in Palestine.

What should happen now?

Amnesty International agrees with the statement of Ambassador Ruecker, President of the Human Rights Council, underlining the importance of remaining focused on the substantive work of the Commission in the interest of the victims and their families on both sides. The Commission of Inquiry and its report represent an opportunity to help break the long-standing cycle of impunity for war crimes and serious violations in Israel and Palestine. For the sake of Palestinians and Israelis, this opportunity must not be squandered.

The Commission’s remaining members, Mary McGowan Davis and Doudou Diène, together with the Commission’s staff, are continuing their work. On 3 February 2015, the President of the Human Rights Council appointed Mary McGowan Davis as the Commission’s Chair. The report of the Commission of Inquiry will be presented to the Human Rights Council at its upcoming session on 23 March 2015; it is expected that the report will document serious violations of international humanitarian law, including war crimes, by both sides during the most recent conflict. Amnesty International urges the Human Rights Council to give the Commission’s findings and recommendations serious consideration, to refrain from politicizing the Commission or its report, and to take all appropriate measures to ensure accountability.

All parties, but especially Israel and the Palestinian authorities, should co-operate with the Commission of Inquiry and any follow-up mechanism that the Human Rights Council establishes. Israeli officials, [including Prime Minister Benjamin Netanyahu](#), continue to claim that Israeli forces acted in accordance with international law during the latest conflict while they continue to deny international investigators physical access to witnesses, locations, and any remaining material evidence. They should demonstrate their good faith by co-operating with the Commission of Inquiry and immediately allowing its investigators, as well as those of international human rights organizations including Amnesty International, into the Gaza Strip.

Background

On 30 January 2015, Israel’s Permanent Representative in Geneva sent a [letter](#) to the

President of the Human Rights Council calling on him to dismiss Professor William Schabas as Chair of the Commission of Inquiry on the 2014 Gaza Conflict, claiming that Israel had evidence that Schabas “had a contractual relationship with the Palestinian side prior to his current assignment”. On 2 February 2015, Professor William Schabas submitted a [letter](#) to Ambassador Joachim Ruecker, the President of the Human Rights Council, resigning his position as Chair with immediate effect. In a [statement](#) issued on 3 February 2015, the President of the Human Rights Council accepted the resignation and stated that he “respects the decision of Professor Schabas and appreciates that in this way even the appearance of a conflict of interest is avoided, thus preserving the integrity of the process.”

In his letter of resignation, Professor Schabas, an expert on the Rome Statute of the International Criminal Court (ICC) and international criminal law, noted that the Israeli complaint related to the fact that he prepared a legal opinion in October 2012 for the Negotiations Affairs Department of the Palestine Liberation Organization. The legal opinion focused on the consequences of a UN General Assembly resolution granting Palestine the status of a non-member state for the declaration submitted to the ICC by the Palestinian Authority in January 2009. Professor Schabas wrote that he provided the legal opinion as a short-term consultancy, something he regularly does for a variety of governments, individuals, and organizations. He also noted that he has not provided other legal opinions or professional services for Palestine or its representatives, and that his views on Israel and Palestine, as well as his scholarship on human rights, were well known and publicly available when he was approached as a potential member of the Commission of Inquiry in August 2014.

After news of Schabas’ resignation became public, Israeli Prime Minister Benjamin Netanyahu issued a [statement](#) calling for the report of the Commission of Inquiry – which is still being written and is due to be published in March 2015 – to be “shelved”. Israeli Foreign Minister Avigdor Liberman issued a [statement](#) claiming that “Schabas’ resignation is another victory for Israeli diplomacy and the hard work of Israel’s Foreign Affairs representatives.” Another [senior Israeli politician](#) has called on the entire Commission of Inquiry to resign.