

AMNESTY INTERNATIONAL

QUESTIONS & ANSWERS



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Israel/Gaza conflict, July 2014

What does Amnesty International think of the resolution passed by the UN Human Rights Council on 23 July? What should happen next?

Amnesty International welcomes resolution S-21/1 to establish a commission of inquiry and notes that the wording allows the commission to investigate violations of international law by all parties to the current conflict. The commission of inquiry represents an important opportunity to break the cycle of persistent impunity for crimes under international law in Israel and the Occupied Palestinian Territories (OPT). In order to be effective the commission of inquiry must be thorough, independent and impartial, and look into violations by any party to the conflict. It must be adequately resourced and have unrestricted access to all relevant areas. Amnesty International urges all states – including all EU member states, who abstained on the resolution – to co-operate with the commission as required.

What are the key obligations of the parties to the conflict during the hostilities under international humanitarian law?

During an armed conflict, all parties – whether state or non-state armed forces – must respect international humanitarian law, which aims to protect civilians by regulating the conduct of all sides in hostilities. States also continue to have an obligation to respect international human rights law during a conflict.

Under international humanitarian law, all sides in an armed conflict must distinguish between military targets and civilians and civilian structures, and direct attacks only at the former. Deliberate attacks on civilians or civilian objects – such as homes, medical facilities, schools, governmental buildings – that are not being used for military purposes are prohibited and are war crimes. Indiscriminate and disproportionate attacks (where the likely number of civilian casualties or damage to civilian property outweighs the anticipated military advantage to be gained) are also prohibited.

All sides must take necessary precautions in attack to minimize harm to civilians and civilian objects. This includes giving civilians effective warnings ahead of attacks, and cancelling or suspending an attack if it becomes apparent that the target is civilian or that the attack would be disproportionate. They also must take all feasible precautions to

protect civilians under their control from the effects of attacks. For example, warring parties should avoid endangering civilians by storing ammunition in, and launching attacks from, populated civilian areas.

What are the different patterns of violations by Israeli forces in the Gaza Strip that Amnesty International has identified since Israel launched Operation “Protective Edge” on 8 July 2014?

Israeli forces have carried out attacks that have killed hundreds of civilians, using precision weaponry such as drone-fired missiles, as well as munitions such as artillery, which cannot be precisely targeted, on very densely populated residential areas, such as Shuja'iyyeh. They have also directly attacked thousands of homes. Israel appears to consider the homes of people associated with Hamas to be legitimate military targets, a stance that does not conform to international humanitarian law.

Several medical facilities and non-military governmental buildings across the Gaza Strip have also been destroyed or damaged. The UN has reported that one of its schools sheltering displaced people in the al-Maghazi refugee camp in central Gaza was shelled by Israeli forces on at least two occasions. Another such school sheltering displaced families in Beit Hanoun in northern Gaza was struck on 24 July, killing at least 15 civilians and injuring many others, and the UN has called for an immediate investigation.

Although the Israeli authorities claim to be warning civilians in Gaza, a consistent pattern has emerged that their actions do not constitute an “effective warning” under international humanitarian law. Israeli attacks have also caused mass displacement of Palestinian civilians within the Gaza Strip.

What is Amnesty International’s position on the firing of indiscriminate rockets and mortars from the Gaza Strip by Palestinian armed groups? Do other actions of Palestinian armed groups in Gaza since 8 July 2014 violate international humanitarian law?

According to the Israeli army, Hamas’ military wing and other Palestinian armed groups fired over 1,700 rockets into Israel from 8 to 18 July, and scores of rockets continue to be fired every day. Three civilians in Israel have been killed. Homes and other civilian properties in Israel have been damaged. International humanitarian law prohibits the use of weapons that are by nature indiscriminate. The rockets fired from Gaza into Israel cannot be aimed exactly at their objective and their use violates international humanitarian law. The firing of indiscriminate rockets and mortars also endangers Palestinian civilians inside the Gaza Strip and in the West Bank.

Statements by some leaders of Palestinian armed groups also indicate that they have no qualms about launching attacks against civilians and that they in fact carry out such attacks intending to kill and injure Israeli civilians. Attacks that directly target civilians and indiscriminate attacks that kill or injure civilians constitute war crimes.

When the Israeli military has warned residents of a specific area in the Gaza Strip to evacuate the area, does that fulfil its obligations to protect civilians under international humanitarian law?

Effective advance warning to civilians is only one of the prescribed precautions in attack aimed at minimizing harm to civilians. When Israeli forces have given warning in many cases key elements of effective warning have been missing, including timeliness, informing civilians where it is safe to flee, and providing safe passage and sufficient time to flee before an attack. There also have been reports of lethal strikes launched too soon after a warning to spare civilians. In any event, issuing a warning does not absolve an attacking force of its obligations to spare civilians, including by taking all other necessary precautions to minimize civilian casualties and damage to civilian structures. Israel's continuing military blockade on the Gaza Strip and the closure of the Rafah crossing by the Egyptian authorities since the hostilities began mean that civilians in Gaza cannot flee to neighbouring countries.

The Israeli authorities claim that Hamas and Palestinian armed groups use Palestinian civilians in Gaza as "human shields". Does Amnesty International have any evidence that this has occurred during the current hostilities?

Amnesty International is monitoring and investigating such reports, but does not have evidence at this point that Palestinian civilians have been intentionally used by Hamas or Palestinian armed groups during the current hostilities to "shield" specific locations or military personnel or equipment from Israeli attacks. In previous conflicts Amnesty International has documented that Palestinian armed groups have stored munitions in and fired indiscriminate rockets from residential areas in the Gaza Strip in violation of international humanitarian law. Reports have also emerged during the current conflict of Hamas urging residents to ignore Israeli warnings to evacuate. However, these calls may have been motivated by a desire to minimize panic and displacement, in any case, such statements are not the same as directing specific civilians to remain in their homes as "human shields" for fighters, munitions, or military equipment. Under international humanitarian law even if "human shields" are being used Israel's obligations to protect these civilians would still apply.

There are reports that Israeli forces have used flechettes in the current military operation in the Gaza Strip. What is Amnesty International's position on the use of flechettes? Has the Israeli military used flechettes in Gaza before?

Flechettes are 3.5cm-long steel darts, sharply pointed at the front, with four fins at the rear. Between 5,000 and 8,000 of these darts are packed into shells which are generally fired from tanks. The shells explode in the air and scatter the flechettes in a conical pattern over an area about 300m by 100m. Flechettes are designed to be used against massed infantry attacks or squads of troops in the open, and obviously pose a very high risk to civilians when fired in densely populated residential areas.

Local human rights groups have reported cases in which civilians in Gaza have been killed and injured by flechette shells. Amnesty International has not yet been able to

verify particular cases during the current hostilities, but has previously documented Israeli forces' use of flechette rounds, for example during Operation "Cast Lead", resulting in the killing of civilians, including children.

Flechettes are not specifically prohibited by international humanitarian law per se, however, they should never be used in densely populated areas.

What is Amnesty International calling on the international community to do at this point?

All states (particularly key suppliers, for example USA for Israel) must suspend all transfers of weapons, munitions and other military equipment and technology to all sides until there is no longer a substantial risk that such items will be used for serious violations of international humanitarian law or serious human rights abuses. The suspension should include all indirect exports via other countries, the transfer of military components and technologies and any brokering, financial or logistical activities that would facilitate such transfers.

States should use the 2009 report of the UN Fact-Finding Mission on the Gaza Conflict and the upcoming report of the commission of inquiry mandated this week by the Human Rights Council as a basis to exercise universal jurisdiction to investigate and prosecute crimes under international law before their national courts.

For a longer, more detailed version of this Questions and Answers document please see:

<http://www.amnesty.org/en/library/info/MDE15/017/2014/en>

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