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What is Amnesty International's position on the resolution passed by the Human Rights Council on 23 July? Now that the Human Rights Council has mandated a commission of inquiry, what should happen next?

Amnesty International urged the Human Rights Council to urgently dispatch an independent, international commission of inquiry to investigate all violations of international humanitarian law, as well as violations and abuses of international human rights law by all parties to the current hostilities. Human Rights Council resolution S-21/1, which was adopted with 29 states voting in favour, one (the USA) voting against, and 17 (including all EU member states currently on the Council) abstaining, established a commission of inquiry to investigate all violations of international law "in the Occupied Palestinian Territory, including East Jerusalem, particularly in the occupied Gaza Strip, in the context of the military operations conducted since 13 June 2014, whether before, during or after". Amnesty International notes that this language allows the commission of inquiry to examine violations by all parties, including those committed by Israel in the Occupied Palestinian Territories (OPT) and those committed by Palestinian armed groups, such as the firing of indiscriminate rockets from the Gaza Strip towards Israel. Amnesty International thus welcomes the establishment of the commission of inquiry, and expects the commission to examine all violations and abuses by all parties in the context of the current hostilities.

As the commission of inquiry is appointed, Amnesty International notes that it must:

- be adequately resourced to conduct impartial investigations and have the necessary expertise in the conduct of criminal and forensic investigations;
- have unrestricted access to all relevant areas, and the authority to gain access to all relevant documents, other evidence and persons;
- be thorough, independent and impartial, and look into any violations or abuses of human rights and violations of international humanitarian law by any party to the conflict;
- build on the analysis and findings of the UN Fact-Finding Mission on the Gaza Conflict (2008/2009) headed by Justice Richard Goldstone; and
- make recommendations for measures to be taken by the parties to the conflict, the Security Council and others aimed at ending and preventing further violations

of international law and ensuring justice, truth, full reparations for victims and guarantee of non-repetition.

Amnesty International notes that EU member states abstained on the resolution. Speaking on behalf of the EU member states in an explanation of this vote, Italy noted that the resolution "fails to condemn explicitly the indiscriminate firing of rockets into Israeli civilian areas as well as to recognize Israel's legitimate right to defend itself." While Amnesty International agrees that the resolution could have said more about the violations of international humanitarian law by Hamas and Palestinian armed groups, and could have established a more precise mandate, the organization notes that nothing in the mandate of the commission of inquiry excludes the actions of Hamas and Palestinian armed groups. Now that the commission of inquiry has been established, Amnesty International urges all states, including all EU members, to co-operate with the commission as required. We welcome the fact that in its explanation of its vote, the EU informed the Human Rights Council that it would closely monitor the implementation of the commission's mandate and continue to work towards a balanced outcome of the investigations.

The commission of inquiry represents an opportunity to break the cycle of persistent impunity for crimes under international law in Israel and the OPT, and this opportunity must not be squandered. The report resulting from the Commission's investigation, due to be submitted to the Human Rights Council at its 28th session in March 2015, should include a plan for ensuring prosecution of individuals suspected of ordering or committing crimes under international law.

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

International humanitarian law aims to protect civilians during armed conflicts, such as the current hostilities between Israeli military forces and Palestinian armed groups in the Gaza Strip, by regulating the conduct of hostilities by both state and non-state armed forces. States also continue to be bound by their obligations under international human rights law during an armed conflict.

Under international humanitarian law, key principles which all parties must respect at all times include the principles of distinction, proportionality and precautions in attack and against the effects of attack.

The principle of distinction requires that parties at all times distinguish between military targets and civilians and that they direct their attacks only at military targets. 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. It is not unlawful to directly attack soldiers, those who are directly participating in hostilities, and military objectives (such as army bases, weapons and munitions caches). In case of doubt as to whether an individual or object is civilian or military, the attacker must presume civilian status.

The principle of proportionality requires that an attack must not be launched if it would cause excessive civilian casualties or damage to civilian objects in relation to the concrete

military advantage anticipated.

Parties to the conflict also are required to take necessary precautions (in attack and defence) to protect civilians. The obligation to take precautions in attack includes adjusting the means and timing of the attack to minimize harm to civilians and civilian objects, ensuring, wherever feasible, that civilians are given effective warnings in advance of attacks, and cancelling or suspending an attack if it becomes apparent that the target is civilian or that the attack would be disproportionate. Firing munitions which cannot be precisely aimed at military targets, such as artillery and mortars, into densely populated residential areas does not comply with the obligation to take all feasible precautions, even if they are aimed at military targets located in these areas, and would constitute indiscriminate attacks. Parties to the conflict must also take necessary precautions to protect civilians in their power from the effects of attack. This includes avoiding, to the maximum extent feasible, co-locating military objectives in the vicinity of densely populated civilian neighbourhoods. This means the parties should avoid endangering civilians by storing ammunition in, and launching attacks from, populated civilian areas.

In addition to the points listed above, Israel continues to have obligations as the occupying power and as a party to the conflict during the hostilities, including ensuring the welfare of the population of the Gaza Strip and adhering to the prohibition on collective punishment. In interpreting these obligations and addressing the urgent humanitarian crisis in Gaza at the moment, Israeli decision-makers must take into account the fact that critical water, sanitation, and health services in the Gaza Strip were already in a dire state before the current hostilities, due largely to Israel's seven-year military blockade. Given the precarious humanitarian situation, it is imperative that Israel allow sufficient fuel and medical and relief supplies into Gaza and facilitate the entry and safe passage of humanitarian workers. Israel and Hamas should agree periodic pauses in the fighting to allow the evacuation of the wounded and dead and urgent repairs on water and sanitation infrastructure. Egypt should also ensure that medical and relief supplies, as well as sufficient amounts of fuel, are allowed into the Gaza Strip on a continual basis.

The parties to the conflict have an obligation to ensure that prompt, independent and effective investigations are conducted into all allegations of violations of international humanitarian law. To that end, they must cooperate fully with international fact-finding inquiries, including the one established on 23 July by the UN Human Rights Council.

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 June 2014?

Israeli forces have carried out attacks that have killed hundreds of civilians, including through the use of precision weaponry such as drone-fired missiles, and attacks using munitions such as artillery, which cannot be precisely targeted, on very densely populated residential areas, such as Shuja'iyyeh. They have also directly attacked civilian objects. Thousands of homes across the Gaza Strip, several medical facilities, and non-military governmental buildings have been destroyed or badly damaged. Statements by the Israeli military and politicians that they consider the homes of people associated with Hamas, including the homes of political leaders, to be legitimate targets indicate that Israel has

adopted targeting rules that do not conform to international humanitarian law, and could be evidence that at least some of the attacks on civilian homes are deliberate policy. 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. Increasing reports that medics trying to evacuate civilians, workers trying to repair damaged water and sanitation infrastructure, and journalists are coming under fire, killing and injuring some of them, are another very serious concern. Direct attacks on civilians and civilian objects, as well as indiscriminate and disproportionate attacks that are intentional and kill or injure civilians constitute war crimes.

Israeli attacks have caused mass displacement of Palestinian civilians within the Gaza Strip. As of 23 July, the UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that over 140,000 internally displaced people were sheltering in schools run by the UN Relief and Works Agency (UNRWA), and thousands of others were in Ministry of Education schools or with relatives. The UN has reported that an UNRWA school sheltering displaced people in the al-Maghazi refugee camp in central Gaza was shelled by Israeli forces on at least two occasions, with at least one child injured. Another UN 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.

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. Three civilians in Israel have been killed and at least 11 others have been moderately or seriously wounded by shrapnel and broken glass, according to Israel's emergency medical service, which has also treated hundreds of other people for light injuries (mostly shock) since the beginning of Operation "Protective Edge". 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 Palestinians 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 resulting in death or injury to civilians constitute war crimes.

Israel says its offensive is aimed, in part, at destroying tunnels used by Hamas and Palestinian armed groups in the Gaza Strip. Are tunnels legitimate targets?

Tunnels that are being used to make an effective contribution to military action (including as a means of launching armed attacks inside Israel, or for storing or transporting weapons and munitions) would be military objectives. As such they could be directly targeted for

attack, subject to the relevant rules of international humanitarian law detailed above.

Tunnels that are being used for civilian purposes (including smuggling civilian goods and supplies into Gaza) are not military objectives and cannot be directly targeted. As the occupying power, Israel may take reasonable and proportionate measures of control or security. This could include preventing unregulated entry and exit of goods, and ensuring that weapons and military equipment are not entering the territory. However, sweeping measures such as the blockade, which amount to collective punishment of the civilian population, are prohibited. The most effective way of ending the use of tunnels to smuggle consumer goods, fuel and other supplies would be for Israel to comply with its obligations as the occupying power and end the siege which has been crippling Gaza economically and violating the human rights of the civilian population for over seven years.

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, 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, doing everything feasible to verify the target is in fact a military objective, cancelling or suspending an attack if it becomes clear that it would be disproportionate, and choosing means and methods of attack that would minimise the risk to civilians and damage to civilian objects. Additionally, Israel's continuing military blockade on the Gaza Strip and the fact that, since the start of the current hostilities, the Rafah crossing has mostly been closed by the Egyptian authorities, 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, and what obligations of Israeli forces and Palestinian armed groups are relevant?

Amnesty International is aware of these claims, and continues to monitor and investigate 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. As explained above, 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, and available evidence indicates that they continue to do both during the current hostilities, in violation of international humanitarian law. During the current hostilities, Hamas spokespeople have reportedly urged residents in some areas of the Gaza Strip not to leave their homes after the Israeli military dropped leaflets and made phone calls warning people in the area to evacuate. However, in light of

the lack of clarity in many of the Israeli warnings on safe routes for civilians to evacuate, the lack of shelters or other safe places in the Gaza Strip for them to go to, and numerous reports of civilians who did heed the warnings and flee doing so under Israeli fire, such statements by Hamas officials could have been motivated by a desire to avoid further panic. In any case, public statements referring to entire areas are not the same as directing specific civilians to remain in their homes as "human shields" for fighters, munitions, or military equipment. Furthermore, international humanitarian law is clear that even if officials or fighters from Hamas or Palestinian armed groups associated with other factions did in fact direct civilians to remain in a specific location in order to shield military objectives from attacks, all of 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, and what were Amnesty International's findings?

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.

Since Israeli forces launched their ground offensive on the Gaza Strip on 17 July, two leading Palestinian human rights groups in the Gaza Strip, the Palestinian Centre for Human Rights (PCHR) and Al-Mezan Center for Human Rights, 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 in the Gaza Strip, resulting in the killing of civilians, including children. For example, during Operation "Cast Lead", Amnesty International found that Israeli forces used tank shells packed with thousands of flechettes on at least five occasions between 4 and 9 January 2009, in the north of Gaza and in a village south of Gaza City, killing several civilians, including a child, a woman and a paramedic. Flechettes are not specifically prohibited by international humanitarian law per se, however, they should never be used in densely populated areas, and their use in these cases during Operation "Cast Lead" violated the prohibition on indiscriminate attacks. Israeli use of flechettes in densely populated areas of the Gaza Strip during the current military offensive would also violate the prohibition on indiscriminate attacks, and could amount to a war crime.

The military wing of Hamas has claimed to have abducted an Israeli soldier; the Israeli authorities have declared him missing. What are the obligations of any groups in Gaza holding this soldier or any other Israeli military personnel?

According to reports, Israel has declared army sergeant Oron Shaul missing in action. If he has been captured alive by Hamas' military wing, they have an obligation under international humanitarian law to treat him humanely. They should grant the International

Committee of the Red Cross access to him as soon as the situation permits and allow him to communicate with his family.

If Oron Shaul is dead and the Al-Qassam Brigades, the military wing of Hamas, are holding his body, they have an obligation to facilitate the return of his remains upon the request of the Israeli army or his family.

Does Amnesty International have delegates on the ground in the Gaza Strip? How is Amnesty International working to verify information during the current hostilities?

Amnesty International has not yet been able to get delegates into the Gaza Strip during the current hostilities, although the organization has requested permission from the Israeli authorities for entry via the Erez crossing and from the Egyptian authorities for entry via the Rafah crossing. We continue to press both authorities, directly and via intermediaries, to allow Amnesty International delegates and other international human rights organizations immediate access to the Gaza Strip.

In the meantime, Amnesty International is working with trusted contacts in the Gaza Strip to take testimonies by phone from eyewitnesses to particular attacks and family members of individuals who have been killed, and to collect photographic and video evidence for munitions experts outside of Gaza to examine. The organization is closely monitoring statements on the ongoing hostilities and particular attacks by both the Israeli authorities and Palestinian armed groups. Amnesty International is also using information from Palestinian and Israeli human rights organizations, as well international NGOs and UN organizations with staff on the ground in Gaza, to help identify patterns of violations and cross-check particular incidents.

Neither Israel nor Palestinian armed groups have heeded Amnesty International's calls. What is Amnesty International calling on all states to do at this point?

All states (particularly key suppliers, e.g. 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.

All states should exercise universal jurisdiction to investigate and prosecute war crimes and other crimes under international law committed in Israel and the Occupied Palestinian Territories in fair trials before their national courts, including crimes committed by the Israeli military and Palestinian armed groups during Operation "Protective Edge", Operation "Pillar of Defense" and Operation "Cast Lead". States should seek to arrest suspected perpetrators and bring them to justice in proceedings complying with international fair trial standards. 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.

Israel withdrew its civilian settlers and military bases from inside the Gaza Strip in 2005. Why does Amnesty International still consider Israel the occupying power in the Gaza Strip, and what are Israel's obligations as the occupying power?

Article 42 of the Hague Regulations defines occupation: "Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised." In interpreting this definition with respect to particular situations, the notion of "effective control" over the territory in question is central. In cases where the occupying power has withdrawn its forces from all or parts of the occupied territory, but has maintained key elements of an occupying power's authority, this retention of authority can amount to effective control. In such cases, occupation law, or at least the provisions relevant to the powers it continues to exercise, continues to apply.

Israel maintains sole control of Gaza's air space and territorial waters, and continues to prohibit any movement of people or goods in or out of Gaza via air or sea. Israel directly controls all but one of Gaza's land border crossings, and continues to close three out of the four crossings for commercial goods, restrict the volume of key imports, and ban most exports, all of which have a serious impact on humanitarian and socioeconomic conditions in Gaza. Israel continues to control the Palestinian population registry, which covers residents of both the Gaza Strip and the West Bank, so any change in these records and all Palestinian Authority identity documents (including ID cards and passports) require Israeli approval. An Israeli-approved ID card or passport is required for any Palestinian to leave Gaza, including through the Rafah crossing. And the Gaza Strip continues to depend on Israel for the majority of its electricity supply.

Since 2005, Israel has continued its land incursions into the Gaza Strip, with Israeli forces regularly destroying farmland and agricultural assets in areas inside the Strip near its perimeter, carrying out other "routine" military operations and, during some periods, arresting "wanted" men inside Gaza. Several large Israeli operations since 2005 have had a devastating effect on civilians in Gaza, including Operations "Summer Rains" and "Autumn Clouds" in 2006, Operation "Hot Winter" in February-March 2008, Operation "Cast Lead" in 2008-2009, Operation "Pillar of Defense" in November 2012, and now the ongoing Operation "Protective Edge". Apart from these major offensives, Israeli land and naval forces regularly use live fire against Palestinian civilians – primarily farmers and fishermen – in the land and maritime access-restricted areas. Israel carries out constant surveillance of the Gaza Strip, using sophisticated unmanned aircraft, satellite imagery and other means.

The combination of these policies, actions and means of military and administrative control and the dependency fostered by over four decades of occupation enable Israel – even without a permanent military presence – to exercise effective control over the Gaza Strip. It thus remains the occupying power in Gaza and continues to be bound by the law of occupation, particularly as regards the powers it continues to exercise.

This means that Israel's actions in the Gaza Strip must be governed by the Law of Occupation, as well as the rules of international humanitarian law on the conduct of hostilities and

international human rights law. The inhabitants of an occupied territory are entitled to special protection and humane treatment. Among other things, the rules prohibit the occupying power from wilfully killing, ill-treating or deporting protected persons. The occupying power is responsible for the welfare of the population under its control. This means it must ensure that law and order is maintained and basic necessities of the population are provided for.

Israel has chosen not to fulfil many of its positive obligations as an occupying power. But this does not negate the existence of these obligations. At the very least, it is incumbent upon Israel not to actively obstruct relief for the civilian population of Gaza. Its military blockade, which has continued for over seven years, and goes well beyond reasonable security measures, is contrary to its obligations as an occupying power and constitutes collective punishment.