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Latest Israeli response to Gaza investigations totally inadequate

Israel's latest response to the UN on its investigations into alleged violations of international law by its forces in Gaza a year ago is totally inadequate, Amnesty International said today.

Crucial questions about the conduct of attacks in which hundreds of civilians were killed and thousands were made homeless are not credibly addressed in Israel's update to UN Secretary-General Ban Ki-moon.

"The investigations undertaken by Israel fail to meet international standards of independence, impartiality, transparency, promptness and effectiveness," said Malcolm Smart, Director of Amnesty International's Middle East and North Africa Programme.

"The Israeli military is investigating itself and in no way can this be adequate in obtaining the truth and ensuring justice for the victims."

The 46-page update published on 29 January says that Israel has opened investigations into 150 incidents involving alleged violations of the laws of war by its forces during Operation "Cast Lead", its 22-day military offensive in Gaza which ended on 18 January 2009.

Around 1,400 Palestinians and 13 Israelis were killed in the conflict that took place in Gaza and southern Israel.

The limited details released indicate that the Israeli authorities are failing to credibly address grave concerns about the army's use of white phosphorus in densely-populated areas.

Attacks on UN facilities and other civilian buildings and infrastructure, as well as direct attacks on Palestinian civilians, including ambulance crews have also not been adequately investigated by Israel.

Such incidents were reported by the UN, Amnesty International and other human rights and media organizations at the time of the conflict.

"There were numerous credible allegations during Operation 'Cast Lead' that violations of international humanitarian law by Israeli forces caused the deaths of hundreds of civilians, led others to be used as "human shields" and destroyed or damaged thousands of homes and other civilian infrastructure," said Malcolm Smart.

"Yet more than one year on, according to the update, only one soldier has been convicted of an offence as a result of the Israeli investigations, and that was the theft of a credit card."

All the Israeli investigations have been carried out by army commanders or by the military police criminal

investigators and overseen by the Military Advocate General, severely compromising their independence and impartiality.

The Military Advocate General's office gave the Israeli forces legal advice on their choice of targets and tactics during Operation "Cast Lead".

The military investigations also preclude the possibility of examining decisions taken by civilian officials, who are also alleged to be responsible for serious violations.

The update states that there is no basis for criminal investigations into serious incidents which Amnesty International maintains warrant effective and independent investigations.

These include Israeli strikes on UN facilities, civilian property and infrastructure, attacks on medical facilities and personnel, and incidents in which large numbers of civilians were killed.

Despite enduring concerns by Amnesty International over Israel's extensive use of white phosphorus in Gaza, the update contends that there are "no grounds to take disciplinary or other measures for the IDF's use of weapons containing phosphorous".

During Operation "Cast Lead" Israeli forces often launched artillery shells containing white phosphorus into residential areas, causing death and injuries to civilians.

Other Israeli attacks which resulted in civilian injuries and deaths are dismissed as "operational errors" although the update admits "some instances" in which Israeli soldiers and officers "violated the rules of engagement".

The Israeli government has not indicated that it will ensure reparations, including compensation, to Palestinian civilians harmed as a result of the "operational errors" or admitted violations of their forces.

Research by Amnesty International into Operation "Cast Lead" showed elements of reckless conduct, disregard for civilian lives and property and a consistent failure on the part of Israeli forces to distinguish between military targets and civilians and civilian objects.

Israeli forces continued to employ tactics and weapons that resulted in growing numbers of civilian casualties for the entire duration of the military offensive. This was despite Israeli officials knowing from the first days of the military offensive that civilians were being killed and wounded in significant numbers.

Amnesty International drew a number of incidents to the attention of the Israeli authorities who have not responded to the organization's repeated requests for clarification on specific incidents.

"In his forthcoming report on domestic investigations by Israel and the Palestinian side, Ban Ki-moon must include a substantive assessment of whether these investigations meet the established UN criteria and are 'independent, credible and in conformity with international standards,'" said Malcolm Smart.

"So far, it appears that neither of the parties are able or willing to conduct investigations meeting those standards. If this remains so, then the responsibility will fall on the UN to ensure accountability for the perpetrators and justice for the victims – and this must include the Security Council eventually considering a referral of the Gaza situation to the International Criminal Court and steps by the General Assembly to establish a fund for victims who were killed or injured or suffered loss or damage resulting from unlawful acts committed during the war."

Background

The Israeli update was submitted days before the deadline set by the UN General Assembly in November 2009 when it endorsed the recommendations of the United Nations Fact Finding Mission on the Gaza Conflict (the Goldstone Report) and called on both Israel and the Palestinian side, within three months, to undertake investigations into alleged war crimes and other violations by their forces.

These investigations, the General Assembly, said, should be “independent, credible and in conformity with international standards into the serious violations of international humanitarian and international human rights law reported by the [UN] Fact Finding Mission, towards ensuring accountability and justice”. Hamas has yet to submit any public report to the UN.