

Ref: IOR 40/2014.105
AI Index: MDE 15/020/2014

H.E. The Permanent Representative

**AMNESTY
INTERNATIONAL**



1 August 2014

AMNESTY INTERNATIONAL
United Nations Office
777 UN Plaza, 6th Floor,
New York, NY 10017, USA
T: +1 212 867 8878 F: +1 212 370 0183
E: aiunny@amnesty.org W: www.amnesty.org

To all members of the Security Council

Open letter on the situation in Israel and the Occupied Palestinian Territories

Dear Ambassador,

We are writing to you today to urge that the Security Council take effective steps to address the extremely grave human rights and humanitarian crisis in the Gaza Strip and Israel.

We urge the Security Council to build on the Presidential Statement of 28 July 2014 by issuing a binding resolution which:

- (a) calls on all parties to the conflict to respect international humanitarian law and protect civilians;
- (b) demands that Israel and Egypt permit medical and humanitarian supplies into the Gaza Strip;
- (c) demands that Israel lifts its military blockade on the Gaza Strip;
- (d) imposes a comprehensive arms embargo on parties to the conflict; and
- (e) refers the situation in Israel and the Occupied Palestinian Territories to the Prosecutor of the International Criminal Court.

In this regard, we draw your attention to the enclosed Amnesty International statement "Israel/OPT: The International Criminal Court must investigate war crimes" (Index: MDE 15/019/2014), issued today. The statement presents the case for urgently establishing the jurisdiction of the International Criminal Court over the situation in the Occupied Palestinian Territories and Israel since 1 July 2002, namely that it would break the persistent impunity that has denied justice to victims of crimes under international law on both sides and left civilians exposed to ongoing and grave violations on a mass scale.

The statement also sets out Amnesty International's assessment of the patterns of serious violations of international humanitarian law that have been committed since 8 July 2014 by Israeli forces, on the one hand, and Hamas and Palestinian armed groups, on the other. Israeli forces have carried out indiscriminate attacks in densely populated areas and direct attacks on civilian homes, violating international humanitarian law and, predictably, killing and injuring many civilians across the Gaza Strip; some of these attacks may amount to war crimes. The three-week bombardment of Gaza as a whole has already claimed well over 1,000 Palestinian lives, the majority of them civilians, and

destroyed civilian infrastructure and thousands of homes. Medical and humanitarian supplies and assistance have been hugely disrupted and, in some cases, attacked, and critical water and sanitation infrastructure has been damaged. Hamas and Palestinian armed groups have committed war crimes by firing indiscriminate rockets at Israeli towns and cities, killing three civilians in Israel and damaging civilian property.

As the conflict has escalated in recent weeks, Amnesty International has repeatedly called on the Israeli authorities and Palestinian armed groups in Gaza, including the military wing of Hamas, to ensure that civilian lives are protected. All parties have an absolute obligation under international humanitarian law to protect the lives of civilians caught in the hostilities.

Both sides in this conflict have an abysmal record of violating international human rights and humanitarian law during armed conflict. Moreover, the Israeli and Palestinian authorities have repeatedly failed to conduct credible and effective investigations into allegations of war crimes and other serious violations of international law and, where sufficient evidence exists, prosecute those suspected of the crimes committed during previous rounds of fighting, in particular during Israel's military operations "Pillar of Defense" in November 2012 and "Cast Lead" in December 2008 and January 2009. An international arms embargo on Israel, Hamas and Palestinian armed groups in the Gaza Strip would be one way for states to send a strong message that further serious violations of international law must be prevented and that they will not contribute to the commission of crimes under international law in Israel and the Occupied Palestinian Territories. Pending such an embargo, Amnesty International is calling on all states to immediately suspend transfers of weapons, munitions and related equipment to the parties to the conflict.

Amnesty International welcomes Human Rights Council resolution S-21/1 of 23 July 2014, which established an independent 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", and expects the commission to examine all violations and abuses by all parties. We have urged the Human Rights Council to ensure that the report of the commission of inquiry, expected in March 2015, is submitted to the Security Council at the earliest opportunity.

However, immediate reaction is required by the Security Council to end the current culture of impunity that perpetuates the cycle of violations and the suffering of victims. Referring the situation in Israel and the Occupied Palestinian Territories since 1 July 2002 to the Prosecutor of the International Criminal Court would send a strong message to all parties that impunity for crimes under international law will no longer be tolerated.

Israel's actions in Gaza must comply with the law of occupation, as well as the rules of international humanitarian law governing the conduct of hostilities, and international human rights law. Israel has, however, chosen not to fulfil many of its positive obligations in this regard. At the very least, it is incumbent upon Israel not to actively obstruct relief for the civilian population of Gaza. Israel's military blockade of Gaza, now in its eighth year, goes well beyond reasonable security measures and is contrary to its obligations as an occupying power. The Israeli blockade of Gaza constitutes collective punishment and must be lifted immediately. Ending the blockade would be a critical step towards long-term peace and security in the region and upholding the human rights of 1.8 million besieged Palestinians in the Gaza Strip.

The international community has failed so far to respond adequately to another breakdown in international peace and security and the ensuing human rights and humanitarian emergency in the

Occupied Palestinian Territories, especially the Gaza Strip, and Israel. Amnesty International notes the Presidential Statement issued by the Security Council on 28 July 2014, and was encouraged by its call for full respect for international humanitarian law and the protection of civilians. However, this and other points should be included in a binding resolution. It is imperative that the Security Council sends the clearest possible message in any resolution that all parties must protect civilians, respect international humanitarian law and human rights, and will be held accountable for failure to do so, with suspected perpetrators of crimes under international law brought to justice.

In addition, in the view of our organization, such a Security Council resolution should:

- Demand that Israel and Egypt ensure that urgently needed medical and other humanitarian supplies are allowed into the Gaza Strip, including sufficient amounts of fuel and electricity to provide power for critical water and sanitation facilities, and that both countries facilitate the exit of anyone in need of urgent medical treatment;
- Demand that the parties to the hostilities respect the protected status of medical facilities and allow medical and other humanitarian workers access to all areas within the Gaza Strip to evacuate the dead and wounded, distribute food and water, and repair critical water and sanitation infrastructure that has been damaged;
- Urge Israel to lift its military blockade on the Gaza Strip, including by allowing Palestinians to travel between Gaza and the West Bank, subject to necessary and proportionate security checks; allowing imports of construction materials; allowing goods produced in Gaza to be transferred for sale in the West Bank and Israel, formerly Gaza's main markets; and ensuring that Palestinian civilians are able to fully access all agricultural land inside Gaza's borders and its territorial waters, and that any use of force by the Israeli military in these areas fully complies with international law;
- Impose a comprehensive arms embargo on Israel, Hamas and Palestinian armed groups, with the aim of preventing further serious violations of international humanitarian law and human rights by the parties to the conflict; such an embargo should not be lifted until there are guarantees that any military equipment, assistance or munitions would not be used by the parties to commit further violations, and the parties have conducted investigations meeting international standards into previous violations and brought those responsible to justice;
- Refer the situation in Israel and the Occupied Palestinian Territories since 1 July 2002 to the Prosecutor of the International Criminal Court and demand that all states co-operate fully with the Office of the Prosecutor and the International Criminal Court itself, as a first step towards ending the impunity for persistent crimes under international law by all parties to the conflict.

Amnesty International hopes that the information and recommendations contained in the enclosed document will be useful for your work. We would be happy to provide you with any additional information.

Yours sincerely,



Renzo Pomi
Amnesty International Representative at the United Nations