

“The killings of protesters in Gaza demand immediate, independent investigation”

Brussels, May 17 2018

ACT Alliance EU condemns violence in all its forms and joins the severe criticism of the killings of unarmed protestors issued by human rights groups, including Human Rights Watch, Amnesty International and our longstanding local partners Al Mezan and B'tselem

Despite all the international calls for restraint, on 14 May 2018, the Israeli military again resorted to the use of live ammunition against Palestinian civilians in what has been the deadliest day since Gaza demonstrations started 7-weeks ago:

62 protestors were killed and 1,114 sustained what will likely be life-changing injuries – bringing to 102 and 3,598 the [total number](#) of people killed and injured with live ammunition over the course of the protests.

Most of those injured, according to [Amnesty International](#), sustained wounds caused by high-velocity rifles with military ammunition and sniper rifles with hunting ammunition, which expands and mushrooms inside the body. According to the [World Health Organisation](#), first responders and ambulances attending those injured were also targeted.

Currently, medical facilities – [already in shambles prior to these events](#) - are struggling to treat the thousands of injured:

Public hospitals in Gaza have less [than a week of fuel](#) reserves to continue their operations. Drugs, disposables as well as vascular and orthopaedic surgeons, anaesthetists and intensive care professional are lacking – putting peoples' lives and limbs at risk. MSF [likens the situation](#) in hospitals where they work to the chaotic situation during the war in 2014.

Saving lives, establishing all the facts and securing accountability for all alleged violations of international humanitarian and human rights law regardless of their perpetrator must become the one priority now.

ACT Alliance EU urges EU and its member States to follow-up to HR/VP Mogherini and UNSG Guterres call for an independent investigation by supporting the resolution establishing a UN commission of inquiry at [special session](#) of UNHRC in Geneva this Friday.

An international inquiry is the only way to secure an impartial and trustworthy investigation, given Israel's expressed intention to entrust the review of its actions to its own Military Advocate General – whose persistent [record](#) of failing to conduct genuine investigations is [well-established](#).

ACT Alliance EU is also urging Member States to summon the Ambassadors of the State of Israel in European capitals to:

1. Demand the sustained and unconditional opening of Gaza's crossings only subject to legitimate border control needs;
2. Condemn the killing and maiming of protestors and deplore the rules of engagement;
3. Demand that Palestinians' right of assembly and peaceful demonstration is respected;
4. Insist on the launching of an independent inquiry on the events, leading to the prosecution of any individual for which evidence of wrongdoing is found.

The legal considerations regarding those events can be found in the box below – our previous statement on the matter [here](#).

More specific legal inquiries can be directed to the [IHL helpdesk of Diakonia](#), where they will be treated on a confidential basis.

Legal considerations on the recent event in Gaza

The State of Israel has the duty to respect and protect the rights of persons participating in assemblies. The use of force in situations which do not constitute active military hostilities – such in the case of protests or riots – is governed by the law enforcement paradigm, subject to international human rights law standards (IHRL).

Under IHRL, the **use of firearms and lethal force** by law enforcement officials is strictly limited to scenarios where there exists a clear and imminent threat to life, or of serious injury. The Israeli military has so far failed to demonstrate how protestors who have been killed or maimed posed a clear and imminent threat to life of well-protected soldiers deployed dozens of metres away on the other side of the border fence.

In the event of an attempted **armed incursion** from Gaza into Israel's sovereign territory, recourse to force may be justified within the limitations imposed by international law. However, at the time of writing, no evidence has been presented to suggest that the protestors who have been killed and maimed, since 30 March 2018, have carried – or were believed to have carry, at the time of its targeting, lethal weapons.

The policing of non-armed protestors and responses to armed border incursion and similar legitimate threats to national security **must never be conflated.**

Incidents of armed incursions in the State of Israel pre-date the start of the protests. This underscores the importance of maintaining the issue of the army's handling of the protests and the legitimate security interests of Israel separated from one another.

Further, **an individual's alleged or proven membership of armed groups** cannot in itself justify the use of lethal force. Nor can the presence of individuals in designated access-restricted areas.

Similarly, IHRL does not permit use of firearms or lethal force in response to threats posed solely to **'security infrastructure'**, such as fences or other physical barriers.

As such, the killings of protected persons in Gaza by the Occupying Power appear to be a grave breach of the Fourth Geneva Convention and a war crime under the Rome Statute of the International Criminal Court (ICC).