



Human Rights concerns during the Lebanon – Israeli conflict

Presentation to the Human Rights Subcommittee of the European Parliament

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Introductory remarks

Amnesty International welcomes this opportunity to address the Human Rights Subcommittee and present an initial assessment of the human rights violations that occurred during the recent Israel-Lebanon conflict and provide an appraisal of the actions taken by the EU. I will conclude by making a few recommendations as to the follow up action required.

Between 12 July and 14 August, a major military confrontation took place between Hizbullah and Israel, following the capture of two Israeli soldiers and the killing of eight others in a cross-border raid by Hizbullah. Israel conducted attacks throughout Lebanon from land, sea and air, killing some 1,000 civilians. Hizbullah launched thousands of rockets on northern Israel, killing 43 civilians. Hundreds of thousands of civilians in Israel and Lebanon were displaced and the massive destruction of infrastructure in Lebanon further aggravated the humanitarian crisis.

Every civilian death in conflict raises the question if it could have been avoided. Yet, in the recent fighting between Israel and Hizbullah, both sides have sought to justify the deaths of civilians in a manner that seems to negate any responsibility.

Amnesty International does not oppose or condone war itself, but we do condemn grave violations of human rights and international humanitarian law wherever they occur and whoever has committed them. That is our purpose and our mission. Inherent human dignity and the right to life are our yardsticks.

Following the escalation of tensions on 12 July, Amnesty International immediately issued an appeal to all conflicting parties to uphold international standards protecting civilian populations. Two weeks into the conflict, we dispatched research missions to both Lebanon and Israel to document human rights violations committed by both sides. Another delegation visited the countries in August and September. The findings of the latter will be published shortly.

Our assessment is based on first-hand information from these missions during which researchers interviewed dozens of victims of the attacks; analysed official statements and press accounts; had discussions with UN, Israeli military and Lebanese government officials; and held talks with Israeli and Lebanese non-governmental groups.

It would be presumptuous to claim that Amnesty International's documentation is exhaustive. The conclusions I draw will therefore have to be considered preliminary and the numbers mentioned are the minimum.

It cannot be stressed enough that clarity about what happened is crucial. Our core demand is that there must be a comprehensive, independent and impartial inquiry into violations of international humanitarian law by both Hizbullah and Israel in the conflict. The inquiry should examine in particular the impact of this conflict on the civilian population. It should propose effective measures to hold accountable those responsible for crimes under international law, and to ensure that the victims receive full reparation.

Violations of International Humanitarian Law during the conflict

Amnesty International immediately appealed to all conflicting parties to observe the requirements of international humanitarian law, and that other governments take all appropriate steps to insist that they do so.

We called upon Israel to put an immediate end to attacks against the civilian infrastructure in Lebanon. We stressed that Israel must also respect the principle of proportionality when targeting any military objects or civilian objects that may be used for military purposes.

We repeatedly called upon Hezbollah to stop launching attacks against Israeli civilians, and insisted it must treat humanely the two Israeli soldiers it captured on 12 July and grant them immediate access to the International Committee of the Red Cross.

Amnesty International further called on the Lebanese government to take concrete measures to ensure that Hezbollah complies with these obligations under international law.

International humanitarian law governs the conduct of war and seeks to protect civilians, others not participating in the hostilities, and civilian objects. In an armed conflict, military forces must distinguish between civilian objects, which may not be attacked, and military objects, which, subject to certain conditions, may be. The principle of distinction is a cornerstone of the laws of war.

The Fourth Geneva Convention prohibits "collective penalties and likewise all measures of intimidation or of terrorism ..." (Article 33). According to Article 147 of the Convention, "extensive destruction ... not justified by military necessity and carried out unlawfully and wantonly," hostage-taking and "torture or inhuman treatment" are grave breaches of the Geneva Conventions and constitute war crimes. All state parties to the Conventions are required to search for and ensure the prosecution of perpetrators of grave breaches of the Convention.

Protocol I Additional to the Geneva Conventions codifies the principle of distinction, a customary rule of international humanitarian law: "In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operation only against military objectives." (Article 48). International Humanitarian Law strictly prohibits attacks against civilians and civilian objects. The Rome Statute of the International Criminal Court (ICC) includes as war crimes: "Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities," and "Intentionally directing attacks against civilian objects" (Article 8 2 (b) (i) and (ii)).

Violations of the obligation to distinguish between military and civilian targets

Military objectives are those that: "by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage." Civilian objects are "all objects which are not military objects". Objects which are normally considered "civilian objects" may, under certain circumstances, become legitimate military objects if they are "being used to make an effective contribution to military action". However, in case of doubt about such use, the object must be presumed to be civilian.

According to the United Nations Office for the Co-ordination of Humanitarian Affairs (OCHA) fact sheet of 16 August, 15,000 civilian homes – houses and apartments – were destroyed in Lebanon. This figure is almost certainly an underestimate. The same document reports: "An inter-agency assessment mission to the southern suburbs of Beirut also observed extensive destruction although the full extent is still being assessed. 2,500 housing units have reportedly been destroyed in Haret Hreik and a further 5,000 damaged." In a country of fewer than four million inhabitants, around one third of them took to the roads as displaced persons. An estimated 500,000 people sought shelter in Beirut alone, many of them in parks and public spaces, without water or washing facilities.

According to the Israeli sources, 3,970 rockets landed on Israel, 901 of which landed in urban areas. During Hezbollah's month-long bombardment of Israel's civilian population, 6,000 homes were hit, 300,000 residents displaced and more than a million were forced to live in shelters. Almost a third of Israel's population - over two million people - were directly exposed to the missile threat.

Hospitals in many parts of Lebanon have sustained shelling damage, particularly in the south, but the main threat to their continued operation came from fuel shortages, road destruction and the ongoing blockade. The Bahman Hospital in southern Beirut was badly damaged and the Dar al-Hawra clinics nearby were effectively destroyed.

Hospitals, which are marked with the Red Cross or Red Crescent, are protected objects under the Geneva Convention and "may in no circumstances be the object of attack." The Lebanese Ministry of Public Health estimated that around 60 per cent of the country's hospitals had ceased to function as of 12 August due to fuel shortages. Eight hospitals, including three in the southern suburbs of Beirut, were forced to close because bombs were falling around them daily.

Although Amnesty International cannot confirm these numbers, it seems apparent that both Hezbollah and the Israeli government have shown a blatant disregard to their obligation to distinguish between civilian and military objects.

The destruction of marked hospitals is in clear violation of the Geneva Conventions.

Indiscriminate and disproportionate attacks

Direct attacks against civilian objects are prohibited, as are indiscriminate attacks. The following types of attacks are considered indiscriminate under International Humanitarian Law:

(a) An attack by bombardment by any methods or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects; and

(b) An attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

Disproportionate attacks, also prohibited, are those in which the "collateral damage" would be regarded as excessive in relation to the direct military advantage to be gained. Israel maintains that the military advantage in this context "is not of that specific attack but of the military operation as a whole."

Of particular concern is the use of cluster bombs. Cluster bombs release a large number of bomblets. Whenever cluster-bombs are released over soft surfaces such as lawns or fields, these bomblets do not explode and become effectively anti-personnel mines. The use of cluster bombs in populated areas must be considered an indiscriminate attack. Amnesty International calls upon Israel to immediately release maps of the areas where such bombs were released.

Protection of the civilian population

The Geneva Conventions and their Addition Protocols not only obliges belligerent parties to clearly distinguish between military and civilian parties, they determine that active measures be taken for their protection.

Firstly, the all military attacks are to carefully avoid civilian areas and effective advance warning shall be given of attacks which may affect the civilian population.

The additional protocols to the convention clearly oblige parties to protect objects indispensable to the survival of the civilian population, and prohibits the attack, destruction, removal or rendering useless of objects such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for

the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.

The Conventions state that if the civilian population is not adequately provided with food and other essential items, relief actions which are humanitarian and impartial in character shall be undertaken, subject to the agreement of the Parties concerned in such relief actions. Offers of such relief shall not be regarded as interference in the armed conflict or as unfriendly acts.

It is documented that the IDF in many instances did give prior warning to the Lebanese civilian population, allowing them to remove themselves from the areas which were to be attacked. Amnesty International declared that issuing such warnings does not absolve Israel of their responsibilities. Wells, water mains, storage tanks, pumping stations and water treatment works have been destroyed throughout south Lebanon. The water service in the entire country has also been disrupted, as water pipes running beneath roads have been extensively damaged when the roads above have been bombed. Water facilities are clearly defined as a civilian object under the Additional Protocols to the Geneva Convention, and their destruction is unlawful.

For several weeks the International Red Cross was not permitted to exercise its protection mandate and provide relief to the civilian population. The ICRC stated that even basic life-saving activities were delayed and curtailed in South Lebanon.

The blockade of Lebanese ports and airports which only came to a halt this weekend, has had the military objective of preventing arms from reaching Hizbullah, but has also disrupted the economic life of Lebanon and severely hampered the overall humanitarian relief effort.

In sum, Amnesty International draws the preliminary conclusion that both parties have not met their obligations to protect the civilian population as obligated under International Humanitarian Law.

EU response to the crisis

Amnesty International welcomed the immediate reaction by the Finnish presidency to the crisis, when Foreign Minister Tuomioja on 13 July called upon parties to uphold international humanitarian law, urging Hizbullah to immediately grant ICRC access to the captured Israeli soldiers.

The Finnish presidency rightfully recognized the crisis as a yardstick to measure the EU's ability to show leadership and effectively apply the European Common Foreign and Security Policy. The dispatch of high level troika visits to both Lebanon and Israel during the second half of July, followed by the extra-ordinary GAERC meeting clearly showed the EU's intent to meet expectations in the region and among EU members.

Amnesty International addressed the GAERC, calling upon EU Foreign Ministers to urge the conflicting parties to prevent further indiscriminate attacks against civilians and to give humanitarian organisations full and immediate access to the conflict zone. We further urged the EU to halt all sales and transfers of arms and military equipment to the belligerent parties and to call for the urgent dispatch of the International Humanitarian Fact-Finding Commission (IHFFC), established under Article 90 of Protocol I relating to the Protection of Victims of International Armed Conflicts (Protocol I), to investigate incidents where serious violations of the Geneva Conventions and the Protocol are alleged to have taken place.

Commission, Council and Parliament all reacted swiftly and in relative terms decisively. ECHO immediately pledged significant amounts to the UN, Red Cross and NGOs in support of their emergency relief activities. Commissioner Ferrero-Waldner assembled a major aid package to assist Lebanon in its forthcoming recovery and reconstruction phase. The five EU members currently sitting on the Security Council contributed to the action of the Council calling for the

immediate cessation of hostilities and the establishment of a strengthened UN force with the mandate to create a buffer-zone between Israeli and Hizbullah combatants.

The Council then began securing the necessary military manpower to implement the resolution. The political will has been translated into the deployment of troops with impressive speed.

While the EU has answered the challenge with the traditional package of aid and peacekeeping, it has yet to fully address how it shall react to the significant violations which have taken place and draw the necessary political consequences.

The Special Session on Lebanon of the recently established UN Human Rights Council, may serve as an example. The Council had an opportunity to address forcefully the dire crisis in Lebanon and Israel with a united voice. Instead, members' focus on their narrow political objectives resulted in a highly-politicised resolution that muted the Council's voice by ignoring the violations of one party to the conflict. The Organisation of Islamic Countries presented an appallingly one-sided resolution. Nevertheless, it called for an inquiry into the human rights offences committed by Israel. Instead of presenting amendments to the resolution which could have opened for a more comprehensive and balanced inquiry, the EU opted to vote against the resolution.

This was a tactical mistake, not only did the no-vote reinforce the negative politicisation attempts made by others, it also left countries in the Middle East questioning the EU's willingness to address legitimate concerns regarding Israel's human rights conduct. This is reflected in the fact that some countries have called upon Lebanon to reject the involvement of troops from countries that voted against this resolution in the UN peacekeeping force.

On 7 September, the UN sent four independent human rights experts to Lebanon and Israel to gather facts about abuses during the recent conflict and conduct an impartial legal analysis of the persistent allegations of violations of international humanitarian law and international human rights law. We can only hope that in spite of the lopsided UN resolution, the independent experts will define their task wider than prescribed by the Human Rights Council.

Amnesty International therefore very much welcomes the timely resolution of 7 September by Parliament calling for the strict adherence to the EU Code of Conduct on Arms Export and an independent and comprehensive international high-level inquiry to investigate reports of serious human rights violations, the plight of victims and the violation of international humanitarian law.

Putting human rights exigencies on hold while addressing the urgencies of cease-fire and humanitarian relief risks mortgaging the possibility of finding sustainable solutions to the conflict both in the short and long term. The EU, with its leading role in the expanded UN force, is uniquely placed to address this risk and to ensure that human rights are indeed part of the basic design of both the short-term measures and the longer-term political agenda.

Recommendations

Amnesty International recommends that all EU institutions and member states should:

- reiterate the European Parliament's call for an immediate and comprehensive United Nations investigation into violations of international humanitarian law committed by both Israel and Hizbullah during this conflict;
- to call upon the government of Israel to immediately release maps detailing the areas where cluster-bombs have been released, as to enable the Lebanese government to clearly mark these areas for the safety of the civilian population and UN military personnel in the area;

- to call for immediate access by the ICRC to the two Israeli soldiers captured by Hizbullah;
- to review Association Agreements with Israel and Lebanon in light of Article 2, and its human rights clause.