

Letter from the Legal Department of Hamas

Dated August 21, 2021

Unofficial English Translation

The Islamic Resistance Movement

[Hamas' coat of arms]

Hamas – Palestine

Legal Department

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Issued

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Date: August 21, 2021

Legal Department – Gaza Strip

Dear Mr. Omar Shakir,

Human Rights Watch Palestine director,

Subject: Response to your report on Palestinian resistance rockets during the aggression on Gaza

We have followed with great interest your report, issued on August 12, "Palestinian Rockets in May Killed Civilians in Israel and Gaza," which refers to Palestinian resistance rockets fired during the Israeli aggression on the Gaza strip last May.

While we highly value your efforts to defend human rights and your role in exposing Israeli abuses in the Occupied Palestinian Territories (OPT), we would like to make the following notes regarding your abovementioned report:

- 1) The phrasing of the report's subtitle, "Indiscriminate Attacks by Gaza-Based Armed Groups Are War Crimes," is regrettable. It carries a clear and conclusive result, accusing Palestinian groups, without a doubt, of committing war crimes. This is a preemptive result that reflects biased and serious impressions, especially that no international organization, including the International Criminal Court (ICC) – your report mentions the statement of the ICC's prosecutor about the aggression – has assertively reached this result. This requires you to amend the subtitle to be more impartial.

It should also be noted that your esteemed organization was not on site in the Gaza strip to investigate. Despite Israeli obstacles, you are not absolved from working diligently to access Gaza to observe the situation there and meet relevant persons to reach conclusions that will definitely be different than the ones you published in your report.

- 2) The Palestinian resistance refuses any comparison with Israel until the latter has declared that it accepts to apply international law to the OPT. Your organization cannot equate a party that accepts international law with another that refuses it.
- 3) The report mentions rocket attacks that Palestinian groups waged at areas within the Green Line, claiming that they are indiscriminate attacks according to international humanitarian law – a qualification that results in many negative consequences. This calls for the following notes:
 - a. Rocket attacks waged from Gaza at the occupied territories have basically targeted “Israeli” military posts. There was no intention to target civilians or civilian objects during the aggression.
 - b. All the rockets that targeted military posts within the Green Line were locally made, produced by the resistance in the Gaza strip because of the Israeli embargo on Gaza and the international community’s complicity against the Palestinian people’s rights, which includes dispossessing Palestinians of any means of force that could contribute to the resistance against the decades-long Israeli occupation. Hence, using [these rockets] is not a luxury or a deliberate act to wage attacks with an undetermined impact. The resistance is constantly working to develop and make them more accurate.
 - c. Specialists within the movement [Hamas] constantly issue instructions about the need to comply with the provisions of international law and follow up on [these instructions] with military officials. This is done before, after and during the fighting, outside of media statements, by checking that the resistance’s means are directed in advance at military targets inside the occupied territories.
 - d. Rocket attacks waged by the Palestinian resistance at military targets within the Green Line, which were in response to the military aggression that killed dozens of civilians and destroyed infrastructure on a large scale, was not at all part of a wide, systematic attack. Also, the damage caused by these rockets was accidental.
 - e. It should be noted that rocket attacks at military targets within the Green Line were not heavy in such a way to cause wide destruction in the targeted sites. The rocket attacks also did not cause severe casualties in the targeted areas, given the impact of these rudimentary rockets. All of this raises a lot of doubts about the possibility to describe these attacks as being indiscriminate – certainly, the impact of indiscriminate attacks cannot be restricted in such a way to fulfill the Geneva Convention’s First Protocol.
 - f. The Palestinian resistance has used all the means that would ensure there are no civilian casualties during the bombing, including giving advance warning as per article 57 of the First Protocol, such as the May 15 Al-Qassam Brigades statement warning the residents of Tel Aviv and its suburbs; and a temporary announced halt of rocket attacks, to which resistance groups committed. This denies report’s claims about “deliberately” targeting civilians.
 - g. We would like to note that the Israeli occupation claimed that what is known as the Iron Dome system successfully shot down 90% of the rockets, which is an “Israeli” acknowledgement that the number of rockets that fell inside the Green Line was not large.
- 4) The Palestinian resistance has previously demonstrated several times that it does not wish to target civilians or civilian objects. It also believed that civilians should be spared the woes of conflict and acts to comply with this belief, even though Israeli occupation forces deliberately and brutally targets civilian objects and infrastructure and civilians; the number of martyrs and wounded and wide scale destruction in the Gaza strip reflect this.
- 5) Hamas would like to highlight that it is Israeli occupation that is committing ongoing abuses in the Palestinian territories and initiated the aggression against Palestinian civilians in the

Jerusalem neighborhood of Sheikh Jarrah specifically, then bombed several areas in Gaza on the eve of May 10, i.e., before Hamas launched rockets at targets in the occupied territories.

- 6) Hamas would like to stress that the entirety of Palestinian territories is under Israeli occupation as per the stipulations of international law and international humanitarian law, which guarantee the right to resist occupation. This is especially guaranteed by Article 31 (c) and (d) of the ICC's statute. Hamas would also like to reiterate the stipulation of Article 51 of the United Nations Charter, that "[n]othing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations."
- 7) Hamas is surprised by the claims that 7 Palestinians were martyred in the evening of May 10 in Jabalia by a resistance rocket. Hamas promises to ask government authorities in the Gaza strip to conduct a comprehensive and transparent investigation about this matter. Hamas confirms that this claim – if true – refutes once again the report's claims that civilians were deliberately targeted. It is inconceivable that the resistance would target Palestinian areas, let alone Palestinian civilians.
- 8) Hamas welcomes an investigation into the events of the aggression by any independent international actor. It is open to communicate with you and all relevant parties and ready to fully cooperate with international investigation efforts.

Sincerely,

Legal Department

The Islamic Resistance Movement Hamas

Gaza Strip