



Lawyers for Palestinian Human Rights' briefing on UK voting on UN Commission of Inquiry report on the 2018 Gaza Protests and Israel/Palestine resolutions at the UN Human Rights Council



About Lawyers for Palestinian Human Rights (LPHR)

LPHR is a lawyer-based charity in the UK that works on projects to protect and promote Palestinian human rights. We distinctly provide a legal and human rights perspective on issues affecting Palestinians. Our trustees include leading human rights lawyers, Sir Geoffrey Bindman QC and Tessa Gregory.

Author of this LPHR briefing:

Tareq Shrourou is the director of LPHR. Before becoming LPHR's first director in 2013, he worked as a human rights solicitor in London representing asylum claimants, unaccompanied children and survivors of human trafficking, and led the public legal advice service of the human rights organisation, Liberty. He holds a master's degree in Public International Law from King's College London.

Natalie Sedacca is a member of the executive committee of LPHR. She is an MPhil / PhD candidate in the Faculty of Laws at University College London and was previously a Senior Associate Solicitor at Hodge Jones & Allen LLP.

Contact

Tareq Shrourou
Director of LPHR
Direct Line 07949 212 795
Email: contact@lphr.org.uk



1. At the 40th UN Human Rights Council session this month, the UK government abstained on voting for the [report](#) of the UN independent Commission on Inquiry on the 2018 Gaza protests, and further voted against resolutions addressing settlements, human rights, and self-determination in the context of Israel's prolonged occupation of Palestinian territory.
2. LPHR is deeply concerned that the UK's votes are entirely incompatible with the UK's long-standing stated commitment to promote the rule of law and human rights in international fora.
3. In relation to the abstention on the Commission of Inquiry report, we note the UK's [statement](#) before the Human Rights Council last Friday 22 March when it explained: *"We did not and cannot support an international investigation that refuses to call explicitly for an investigation into the action of non-state actors such as Hamas, and we cannot support a resolution that fails to address the actions of all actors, including non-state actors."*
4. We are troubled by the UK's continued reliance on these grounds as a basis for abstention given that they appear to lack any genuine substance. The [resolution](#) adopted on 18 May 2018 by the Human Rights Council establishing the Commission of Inquiry explicitly calls for an investigation of '*all alleged violations and abuses of international humanitarian law and international human rights law*'. This mandate, on a plain reading, does not exclude any relevant actor, despite not explicitly naming any specific state or non-state actor.
5. To underscore this clear interpretation of the text of the 18 May 2018 resolution, the actions of non-state actors, including Hamas, were, in fact, investigated by the Commission of Inquiry, which made critical findings against it (see further below). Furthermore, the May 2018 resolution called for '*an immediate cessation of all attacks, incitement and violence*' and called upon '*all parties to ensure that future demonstrations remain peaceful*.'
6. It is particularly troubling that these grounds are cited by the UK government when placed against the grave context of the Commission of Inquiry's finding of '*reasonable grounds to believe*' that all 189 fatalities at the protests in Gaza from 30 March 2018 to 31 December 2018 were caused by unlawful use of force – with the possible exception of two incidents - and that medical workers, journalists, some children and some people with visible disabilities were shot intentionally. As noted in a [joint statement](#) by 11 UK charities - including LPHR, Christian Aid, Medical Aid for Palestinians and War on Want - published last Friday, we take the position that this represents a regrettable dereliction



of the UK's responsibility to uphold respect for the rule of international law and human rights.

7. In our [letter](#) to the then Minister Alistair Burt dated 7 June 2018, we suggested that the UK government should, in principle, support the report of the Commission of Inquiry if it is impartial and thorough. We take the considered view that the 251-page report of the Commission published this month met these two tests in accordance with international standards for a genuine investigation.
8. In relation to the principle of impartiality, the Commission investigated the involvement of Hamas in the weekly civilian protests, and made the following critical findings at paragraph 705: Hamas encouraged or defended the use of incendiary kites and balloons; failed in due diligence obligations to prevent and stop the use of these incendiary devices; and is obliged to investigate these failures of international human rights law. It cannot reasonably be affirmed that the Commission's investigation and report was not 'impartial, fair or balanced', which is the criteria raised by UK last week when stating its expectation about how accountability should be pursued.
9. We reaffirm that the UK should, as a matter of principle, have voted for the report of the Commission of Inquiry on the basis that it was impartial and thorough in accordance with international standards.
10. Finally, we would be grateful for clarification of the [statement](#) made by Ambassador Julian Braithwaite last Friday, that Hamas bears 'principal responsibility' for all Palestinians killed and injured at the protests. Bearing in mind the fact that Israeli forces carried out these killings and injuries, this seems like a mistaken gross misstatement.
11. In relation to the votes against all resolutions tabled under Item 7, we note the Government's [repeated concern](#), first expressed at the 34th UN Human Rights Council session in March 2017, that the Human Rights Council takes a biased position on Israel. We further note the comparison it has previously made to the absence of Syria as a permanent agenda item as justification for its position.
12. We do clearly acknowledge that serious and protracted violations of international humanitarian and human rights law occur in many parts of the world, including Syria. However, it cannot reasonably follow from this that paying attention to serious violations of international law amounts to 'bias'.
13. We instead suggest, as previously noted in our [letter](#) to the UK government on this issue dated 16 February, that a preferred approach from a human rights perspective to the concern expressed by the UK, would be to use its influence as a prominent member of the Human Rights Council to urge the inclusion of other prolonged and serious human rights crises, such as the situation in Syria, as permanent agenda items.



14. We urge the UK government to consider adopting this suggestion and to withdraw from the extremely troubling position of voting against resolutions on serious human rights issues that are grounded in basic norms of international humanitarian and human rights law. Voting against such resolutions also signifies that the UK government lacks coherence in international fora on core issues in regard to Israel's occupation, for example, when compared with its affirmative vote for [UN Security Council resolution 2334](#) and important [recommendations](#) at the Universal Periodic Review of Israel.

Tareq Shrourou, Natalie Sedacca