



AUSTRALIAN
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FOR
HUMAN RIGHTS

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18 May 2018

Hon Julie Bishop
Minister for Foreign Affairs
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

Via email: Julie.Bishop.MP@aph.gov.au

Dear Minister,

Re: United States Embassy Opening in Jerusalem, Israel

Australian Lawyers for Human Rights (ALHR) writes to commend your decision not to send an Australian representative to the opening of the embassy of the United States of America in Jerusalem, Israel.

ALHR has long been gravely concerned by breaches of international law occurring in Israel, Gaza and the Occupied Territories.

The ramifications of President Donald Trump's decision to relocate the US embassy and recognise Jerusalem as the capital of Israel are wide reaching. There is little doubt that recognising Jerusalem as Israel's capital makes a two-state solution more difficult to achieve in the long term and stands as a roadblock to the Palestinian people's right of self-determination and, importantly, to the human rights of all people who reside in the region.

The immediate effect of the US decision is the impact on the people of Gaza, Israel and the Occupied Territories. On 15 May 2018, it was widely reported that the Israeli Defence Force (IDF) shot and killed 55 people and injured over 2500 others protesting on the border between Gaza and Israel.

While ALHR recognises Israel's rights under international law to defend its citizens, in doing so the IDF must adhere to International Humanitarian Law (IHL), in particular the principles of proportionality, distinction, humanity, and military necessity. Whilst all of these principles are of equal importance, the current situation highlights why the principles of distinction and proportionality are fundamental.

There is no flexible approach to IHL:

- Distinction requires civilians to be distinguished from military targets. The use of force is unlawful if directed specifically against civilians, employed indiscriminately without distinction between civilians and military targets, or targeted at military targets but causing disproportionate civilian casualties. Intentionally directing attacks against civilians may constitute a war crime.
- Even if the attacks are lawfully directed, they will still be unlawful if the attacks are expected to cause incidental harm to civilians that is disproportionate to the military advantage. The military advantage anticipated must be direct and concrete, and the analysis must take place on a case-by-case basis.

Australia should speak out strongly against breaches of IHL when they occur and endeavor to use diplomatic pressure to ensure countries, like Israel, investigate all allegations of breaches of IHL, and minimise the harm caused to civilians during war.

Further, ALHR commends and supports Australia's decision not to move its embassy from Tel Aviv to Jerusalem. This is a decision which respects the integrity of the peace process, upholds fundamental human rights, and preserves Australia's relationship with the Palestinian people.

We thank you for considering this letter.

Yours faithfully,



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ALHR was established in 1993 and is a national association of Australian solicitors, barristers, academics, judicial officers and law students who practise and promote international human rights law in Australia. ALHR has active and engaged National, State and Territory committees and specialist thematic committees. Through advocacy, media engagement, education, networking, research and training, ALHR promotes, practices and protects universally accepted standards of human rights throughout Australia and overseas.