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Israel accused of indiscriminate phosphorus use in Gaza

Human Rights Watch report claims Israel committed war crimes in its use of air-burst white phosphorus artillery shells

Rory McCarthy in Jerusalem
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Palestinian civilians and medics run to safety during an Israeli strike using phosphorus shells at a UN school. Photograph: Mohammed Abed/AFP

Israel's military fired white phosphorus over crowded areas of Gaza repeatedly and indiscriminately in its three-week war, killing and injuring civilians and committing war crimes, Human Rights Watch said today.

In a 71-page report, the rights group said the repeated use of air-burst white phosphorus artillery shells in populated areas of Gaza was not incidental or accidental, but revealed "a pattern or policy of conduct".

It said the Israeli military used white phosphorus in a "deliberate or reckless" way. The report says:

- Israel was aware of the dangers of white phosphorus.
- It chose not to use alternative and less dangerous smoke shells.
- In one case, Israel even ignored repeated warnings from UN staff before hitting the main UN compound in Gaza with white phosphorus shells on 15 January.

"In Gaza, the Israeli military didn't just use white phosphorus in open areas as a screen for its troops," said Fred Abrahams, a senior Human Rights Watch researcher. "It fired white phosphorus repeatedly over densely populated areas, even when its troops weren't in the area and safe smoke shells were available. As a result, civilians needlessly suffered and died." He said senior commanders should be held to account.

Human Rights Watch called on the UN secretary-general, Ban Ki-moon, to launch an international commission of inquiry to investigate allegations of violations of international law in the Gaza war by the Israeli military and Hamas, the Palestinian Islamist movement that controls Gaza.

The Israeli military has defended its conduct in Gaza in the face of mounting allegations of serious violations of international law and said its soldiers did not intentionally target civilians. When Israel's use of white phosphorus emerged during the war, the military at first denied using the weapon, then said it only used weapons in accordance with

international law. Later it announced an internal inquiry, led by a colonel, would be held.

Tonight the Israeli military said its investigation into the use of white phosphorous was still under way, but insisted its use of what it called 155mm "smoke shells" was legal.

"Based on the findings at this stage it is already possible to conclude that the IDF's use of smoke shells was in accordance with international law," it said. "These shells were used for specific operational needs only and in accord with international humanitarian law. The claim that smoke shells were used indiscriminately, or to threaten the civilian population, is baseless."

White phosphorus burns in contact with oxygen and causes deep burns when it touches human skin, sometimes reaching to the bone. The weapon is not illegal itself and can be used to provide a smokescreen on the battlefield or as an incendiary weapon against a military target. However, its use is regulated even by customary international law. It must be used in a way that distinguishes between combatants and civilians and cannot be used to target civilians.

Most of the Israeli military's white phosphorus in Gaza was fired in 155mm artillery shells, each containing 116 wedges soaked with the chemical.

In January, the Guardian found one such shell still smoking several days after it was fired, outside the home of the Abu Halima family in Atatra. One white phosphorous shell hit the house directly, killing a father and four of his children. His wife was severely burnt. Human Rights Watch also reported the same case.

Human Rights Watch found 24 spent white phosphorus shells in Gaza, all from the same batch made in a US ammunition factory in 1989 by Thiokol Aerospace. Other shells were photographed during the war with markings showing they were made in the Pine Bluff Arsenal, also in America, in 1991.

Human Rights Watch said the Israeli military often used the weapon even in areas where there were no Israeli troops on the ground, which it said, "strongly suggests that the IDF [Israel Defence Forces] was not using the munition for its obscurant qualities but rather for its incendiary effect".

The group said it found no evidence that Hamas fighters used Palestinian civilians as human shields - a key Israeli claim - in the area at the time of the attacks it researched.

The rights group studied six cases in detail in which 12 civilians were killed and dozens more were injured.

In one case, witnesses described how a white phosphorus shell hit a car in Tel al-Hawa, in south-eastern Gaza City, killing a bank manager, his wife and two of their children on 15 January.

On the same day, at about 7.30am, Israeli artillery shells began falling near the main compound of the UN Relief and Works Agency in Gaza City, where 700 civilians were sheltering. UN staff made repeated telephone calls to the Israeli military asking them to stop but, at about 10am, six shells hit the compound, three of which contained white phosphorus. The warehouse was hit, causing at least \$10m of damage, and it continued to burn for 12 days.

The Israeli prime minister, Ehud Olmert, said at the time that "Hamas fired from the UNRWA site". But the UN has always denied there were any militants in the compound or firing from the compound.

In another case, on 17 January, an artillery shell that had already discharged its white phosphorus hit a UN school in Beit Lahiya, where 1,600 civilians were sheltering. It killed two brothers in a classroom and severely injured their mother and cousin.