

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: August 13, 2014

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations Committee

FROM: Gerry F. Miller
Chief Legislative Analyst

Council File No.: 14-0002-S85
Assignment No. : 14-07-0560

SUBJECT: Resolution (Koretz – Blumenfield – Englander) to support H. Con. Res. 107 and S. Con. Res. 41 relative to the use of human shields.

CLA RECOMMENDATION: Adopt the attached Resolution (Koretz – Blumenfield – Englander) to include in the City's 2013-2014 Federal Legislative Program SUPPORT of H. Con. Res. 107 and S. Con. Res. 41 which denounces the use of civilians as human shields.

SUMMARY

Resolution (Koretz –Blumenfield – Englander) states that “human shields” refer to the use of civilians, prisoners of war, or other noncombatants whose mere presence is designed to protect combatants and objects from attack and violates international humanitarian law. According to the Resolution, it has been observed that Hamas uses civilian populations as human shields by placing its underground tunnel network and missile batteries in densely populated areas. The Resolution states that Israel drops leaflets, makes announcements, places phone calls and sends text messages to the Palestinian people in Gaza warning them in advance of an imminent attack and goes to extraordinary lengths to target only terrorist actors. The Resolution further states that Hamas urges residents to ignore these warnings.

The Resolution indicates that Hamas, al Qaeda, Islamic State of Iraq and the Levant (ISIS) and other foreign terrorist organizations typically use innocent civilians as human shields. The Resolution states that currently before the United States House of Representatives and Senate are H. Con. Res. 107 and S. Con. Res. 41 which denounce the use of civilians as human shields by Hamas and other terrorist organizations in violation of humanitarian law. According to the Resolution, opposition to the use of human shields is consistent with international law to preserve the lives of innocent bystanders in armed conflicts.

The Resolution recommends that the City support H. Con. Res. 107 and S. Con. Res. 41.

BACKGROUND

The term “human shields” refers to the use of civilians, prisoners of war, or other noncombatants to protect combatants and objects from attack.

According to the International Committee on the Red Cross (ICC); the use of human shields is prohibited by international humanitarian law. The rule is set forth in the Third Geneva Convention (with respect to prisoners of war) the Fourth Geneva Convention (with respect to protected civilians) and Additional Protocol I (with respect to civilians in general). The ICC states that the use of human

shields constitutes a criminal offense under the laws of several countries.

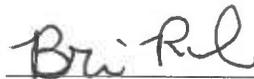
The use of human shields has been alleged in the recent Israel/Gaza conflict. In addition, the ICC states that the United Nations has condemned the use of human shields with respect to armed conflicts in Liberia, Rwanda, Sierra Leone, Somalia, Tajikistan, and the former Yugoslavia. Amnesty International, a non-governmental organization which promotes human rights, reports that targeted or indiscriminate attacks against civilians are war crimes.

Departments Notified

None.

Bill Status

07/30/2014	Passed/agreed to in House of Representatives.
07/30/2014	Received in the Senate.



Brian Randol
Analyst

Attachments: 1. Resolution (Koretz – Blumenfield – Englander)
 2. Text of H. Con. Res. 107
 3. Text of S. Con. Res. 41

14-0002-585

JUL 30 2014

RESOLUTION RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, "human shields" refer to the use of civilians, prisoners of war, or other noncombatants whose mere presence is designed to protect combatants and objects from attack; and

WHEREAS, the use of human shields violates international humanitarian law (also referred to as the Law of War or Law of Armed Conflict); and

WHEREAS, since June 15, 2015, there have been over 2,000 rockets fired by Hamas and other terrorist organizations from Gaza into Israel; and

WHEREAS, it has been observed that Hamas uses civilian populations as human shields by placing its underground tunnel network and missile batteries in densely populated areas; and

WHEREAS, Israel drops leaflets, makes announcements, places phone calls and sends text messages to the Palestinian people in Gaza warning them in advance of an imminent attack and goes to extraordinary lengths to target only terrorist actors yet Hamas urges residents to ignore these warnings; and

WHEREAS, Hamas, al Qaeda, Islamic State of Iraq and the Levant (ISIS) and other foreign terrorist organizations typically use innocent civilians as human shields; and

WHEREAS, currently before the United States House of Representatives and United States Senate are H. Con. Res 107 and S. Con Res. 41 which denounce the use of civilians as human shields by Hamas and other terrorist organizations in violation of humanitarian law; and

WHEREAS, opposition to the use of human shields is consistent with international law to preserve the lives of innocent bystanders in armed conflicts;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2013-14 Federal Legislative Program SUPPORT for H. Con. Res. 107 and S. Con. Res. 41 which denounce the use of civilians as human shields by Hamas and other terrorist organizations in violation of international humanitarian law

PRESENTED BY:

Paul Koretz
PAUL KORETZ

Councilmember, 5th District

SECONDED BY:

Bob Blumenfeld

JUL 30 2014

BMR

M.

ORIGINAL

113TH CONGRESS
2^D SESSION

H. CON. RES. 107

CONCURRENT RESOLUTION

Whereas the term “human shields” refers to the use of civilians, prisoners of war, or other noncombatants whose mere presence is designed to protect combatants and objects from attack;

Whereas the use of human shields violates international humanitarian law (also referred to as the Law of War or Law of Armed Conflict);

Whereas Additional Protocol I, Article 50(1) to the Geneva Convention defines “civilian” as, “[a]ny person who does not belong to one of the categories of persons referred to in Article 4(A) (1), (2), (3), and (6) of the Third Convention and in Article 43 of this Protocol. In the case of doubt whether a person is a civilian, that person shall be considered a civilian.”;

Whereas Additional Protocol I, Article 51(7) to the Geneva Convention states, “[T]he presence or movement of the civilian population or individual civilians shall not be used to render certain points or areas immune from military operations, in particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations. The Parties to the conflict shall not direct the movement of the civilian population or individual civilians in order to attempt to shield military objectives from attacks or to shield military operations.”;

Whereas since June 15, 2014, there have been over 2,000 rockets fired by Hamas and other terrorist organizations from Gaza into Israel;

Whereas Hamas has been using civilian populations as human shields by placing their missile batteries in densely populated areas and near schools, hospitals, and mosques;

Whereas Israel drops leaflets, makes announcements, places phone calls and sends text messages to the Palestinian people in Gaza warning them in advance that an attack is imminent, and goes to extraordinary lengths to target only terrorist actors;

Whereas Hamas has urged the residents of Gaza to ignore the Israeli warnings and to remain in their houses and

has encouraged Palestinians to gather on the roofs of their homes to act as human shields;

Whereas on July 23, 2014, the 46-Member UN Human Rights Council passed a resolution to form a commission of inquiry over Israel's operations in Gaza without a single mention of the indiscriminate rocket attacks by Hamas or the use of human shields, with the United States being the lone dissenting vote;

Whereas public reports have cited the role of Iran and Syria in providing material support and training to Hamas and other terrorist groups carrying out rocket and mortar attacks from Gaza;

Whereas throughout the summer of 2006 conflict between the State of Israel and the terrorist organization Hezbollah, Hezbollah forces utilized human shields in violation of international humanitarian law;

Whereas Al-Qaeda, Al-Shabaab, Islamic State of Iraq and the Levant (ISIL) and other foreign terrorist organizations typically use innocent civilians as human shields;

Whereas the United States and Israel have cooperated on missile defense projects, including Iron Dome, David's Sling, and the Arrow Anti-Missile System, projects designed to thwart a diverse range of threats, including short-range missiles and rockets fired by non-state actors, such as Hamas;

Whereas the United States has provided \$235,000,000 in fiscal year 2014 for Iron Dome research, development, and production;

Whereas, during the most recent rocket attacks from Gaza, Iron Dome has successfully intercepted dozens of rockets

that were launched against Israeli population centers;
and

Whereas 5 million Israelis are currently living under the
threat of rocket attacks from Gaza: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring), That Congress—*

3 (1) strongly condemns the use of innocent civil-
4 ians as human shields;

5 (2) calls on the international community to rec-
6 ognize and condemn Hamas' breaches of inter-
7 national law through the use of human shields;

8 (3) places responsibility for the rocket attacks
9 against Israel on Hamas and other terrorist organi-
10 zations, such as Islamic Jihad;

11 (4) supports the sovereign right of the Govern-
12 ment of Israel to defend its territory and its citizens
13 from Hamas' rocket attacks, kidnapping attempts
14 and the use of tunnels and other means to carry out
15 attacks against Israel;

16 (5) expresses condolences to the families of the
17 innocent victims on both sides of the conflict;

18 (6) supports Palestinian civilians who reject
19 Hamas and all forms of terrorism and violence, de-
20 siring to live in peace with their Israeli neighbors;

21 (7) condemns Hamas' repeated refusals to ac-
22 cept a cease-fire with Israel;

1 (8) supports efforts to permanently demilitarize
2 the Gaza Strip, removing Hamas's means to target
3 Israel, including its use of tunnels, rockets, and
4 other means; and

5 (9) condemns the United Nations Human
6 Rights Council's biased commission of inquiry into
7 Israel's Gaza operations.

Passed the House of Representatives July 30, 2014.

Attest:

Clerk.

113TH CONGRESS
2^D SESSION

H. CON. RES. 107

CONCURRENT RESOLUTION

Denouncing the use of civilians as human shields
by Hamas and other terrorist organizations in
violation of international humanitarian law.

113TH CONGRESS
2D SESSION

S. CON. RES. 41

Denouncing the use of civilians as human shields by Hamas and other terrorist organizations in violation of international humanitarian law.

IN THE SENATE OF THE UNITED STATES

JULY 24, 2014

Mr. CRUZ (for himself and Mrs. GILLIBRAND) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations

CONCURRENT RESOLUTION

Denouncing the use of civilians as human shields by Hamas and other terrorist organizations in violation of international humanitarian law.

Whereas the term “human shields” refers to the use of civilians, prisoners of war, or other noncombatants whose mere presence is designed to protect combatants and objects from attack;

Whereas the use of human shields violates international humanitarian law (also referred to as the Law of War or Law of Armed Conflict);

Whereas Additional Protocol I, Article 50(1) to the Geneva Convention defines “civilian” as, “[a]ny person who does not belong to one of the categories of persons referred to in Article 4(A) (1), (2), (3), and (6) of the Third Conven-