



July 21, 2014

To Mr. Yehuda Weinstein, Attorney General of Israel

**Urgent!**

Via fax: 02-6467001

Dear Sir,

Re: **Offensive policy in Gaza in Operation Protective Edge**

1. I am contacting you on behalf of the organizations B'tselem, Gisha, the Association for Civil Rights in Israel, the Public Committee against Torture in Israel, Hamoked – Center for the Defence of the Individual, Yesh Din, Adalah, Machsom Watch, Rabbis for Human Rights and Physicians for Human Rights - Israel. We are contacting you owing to reports of severe injury to the civilian population and strikes on civilian targets within the framework of Operation Protective Edge. The reports and data which have accumulated thus far regarding the nature of the strikes and the level of injury to noncombatant civilians as a result of these strikes raise serious concern of severe violations of international humanitarian law, and specifically the laws of war. We are contacting you with a request to instruct the government to refrain from these actions and to initiate an effective and independent examination of Israel's offensive policy in the Gaza Strip, specifically with regards to the circumstances detailed below.
2. Since the start of the current round of fighting in the Gaza Strip, known as Operation Protective Edge, over 400 people have been killed and thousands injured, the vast majority of which are Palestinians. Among the Palestinian dead are over 80 children and according to UN estimates, the percentage of civilians killed is over 70% (<http://bit.ly/WljwCT>). According to the Palestinian Center for Human Rights, civilians uninvolved in the conflict constitute over 80% of all Palesitnian deaths, see: <http://bit.ly/UcfwtE>.
3. The fighting in Gaza is particularly intensive and there are severe difficulties in collecting up-to-date data. However, the information that has reached us thus far obligated us to urgently contact you now, particularly because the fighting is continuing unabated and quickly intensifying, and the number of civilian casualties is growing alongside it.
4. The data collected thus far regarding the fighting in the Shuja'iya neighborhood on July 20, 2014 reveals a disturbing picture of dozens of Palestinians killed, including at least 17 children and 14 women. According to photographs from the field, it appears that some of the civilians were killed while attempting to flee the area of the battle. The IDF Spokesperson has reported that 13 soldiers were killed fighting in the neighborhood. In his English twitter account, the IDF Spokesperson detailed that since the beginning of Operation Protective Edge, 140 rockets have been fired from Shuja'iya into Israel, and that during military activity in the neighborhood,

ten tunnel openings were located. However, the IDF Spokesperson did not explain how action against these military targets or the combat itself justifies such broad and deadly military action against an entire civilian neighborhood and its residents.

5. The high number of casualties in Shuja'iya raises grave concern as to the legality of the conduct of the IDF and its commanders during this incident, and specifically the violation of basic principles of the law of war, first and foremost the principle of distinction. According to the laws of war, the military commander must **refrain** from actions that do not allow for distinction between legitimate military targets and illegitimate civilian targets, and between fighters and civilians not taking part in the hostilities. In addition, the commander is obligated to take precautions in order to decrease suffering and prevent harm to civilians, and is also obligated to act proportionally against military targets. The military commander must take positive steps to decrease injury to the civilian population and must examine alternate maneuvers to achieve the military goal; if there is no way to sufficiently minimize damage s/he must refrain from the required military action.
6. Providing an alert or warning to residents does not transform them or their homes into legitimate military targets and does not exempt the military commander from the obligation to refrain from indiscriminate injury to civilians in the area. This remains true, even in the case that Hamas effectively prevents the civilian population from leaving the neighborhoods that the military has demanded that they leave, as was claimed by the IDF Spokesperson. In the current situation, many residents have no real ability to flee the location being attacked, because the entire area is under attack and there is no safe shelter for them. This is of course true when a supposed "warning" is provided to an entire neighborhood a short time before the strike. Without a protected place which the residents can safely reach and in which they can find shelter and have their humanitarian needs met, the military commander cannot claim that sufficient precautions were taken to prevent injury. In consideration of all this, **serious concern arises that during the incident in Shuja'iya basic principles of humanitarian law were violated, and that as a result many civilians were killed.**
7. Similar concerns arise as well from earlier incidents during the operation, during each of which many civilians were killed. For example, we are concerned about the strike of the beach café Waqt al-Marah in Khan Yunis on Wednesday, July 9, 2014. Some 13 individuals were in the café watching World Cup games, and 9 were killed. (See the B'Tselem report here: <http://bit.ly/1u5xiz7>.) Similar concerns arise as to the killing of the four children under age 15 by Navy ship fire while they played soccer on the beach. (See here: <http://bit.ly/1nKRZaq>). An additional severe example is the bombing of the residence for persons with disabilities in Beit Lahiya on Saturday, July 12, 2014. As a result of the strike, two wards were killed and three injured, and a caregiver working at the residence was also injured (see: <http://bit.ly/UkkfJJ>).
8. The IDF Spokesperson justified these outcomes based on the claim that the military attempted to strike what they predicted to be legitimate military targets and that the injury to civilians was unintended "collateral damage." However, the IDF Spokesperson did not explain what precisely made seemingly clearly civilian targets, such as a café or a residence for persons with disabilities, into legitimate targets. Even if there were strikes on legitimate military targets, the painful outcome in these three incidents raises the concern that sufficient precautions to prevent injury to the civilian population were not adopted.

9. Additionally, during the first ten days of combat, the media reported targeted air strikes on dozens of homes of Hamas and Islamic Jihad members. Already on the first day of combat, on July 8, 2014, the **Kwarea family** home -- a building of three stories with seven apartments belonging to the family -- was bombed. As a result of the explosion, the roof of the home collapsed and the eight people inside, six of whom were children, were killed. In addition, 28 people were injured, 10 severely. That same night, the home of the **Hammad family** was bombed. An investigation by B'Tselem indicates that in contrast to the Kwarea family incident, no occupant of the home received warning from the military and the home was bombed a short time after the family members had gone to sleep. Six people, including a 16-year-old girl, were killed. Two days later, on July 10, 2014, the home of the **Al-Hajj** family in Khan Yunis was bombed, and all members of the family with the exception of one son who was not at home during the bombing -- eight people in total -- were killed (see: <http://bit.ly/UjWHoj>). On July 17, 2014, in the Sabra neighborhood, three children of the **Shuheibar family** were killed -- two brothers aged 8 and 11 and their 8 year-old cousin. These three children were killed by the impact of a warning missile, even though the target was a different home nearby (see: <http://bit.ly/1u5pe1o>). And these are only a few examples.
10. The IDF Spokesperson's comments on some of these incidents indicate that the homes were bombed knowingly and intentionally, as part of a policy which enables strikes on the homes of members of Hamas and the Islamic Jihad, claiming that these are legitimate military targets. In some instances, the IDF Spokesperson argued that the homes themselves were used as military command centers or arms caches. However, in the decisive majority of announcements, the Spokesperson sufficed with the statement that the home of a Hamas member was attacked and described the member's activities against Israel. However, according to the laws of war, in order for a private home belonging to a member of Hamas, the Islamic Jihad or any other organization to become a legitimate military target, the military commander must demonstrate that the home contributed effectively to the military activity of the organization during the time of the attack and that there was an immediate military necessity to attack the home, including attacking whoever or whatever was inside of it.
11. A policy that allows attacks on residential homes only because they are the residences of members of enemy organizations is illegal. Even in instances in which a supposedly civilian site is used for enemy military activity, and is justifiably classified as a legitimate military target according to the laws of war, the military commander must still take precautions and weigh considerations of proportionality. If the military commander is convinced that injury to civilians is expected to be considerable and greater than the expected military gain, s/he must **refrain** from executing the action. In this case, alerts or warnings do not exempt the military from these obligations. Specifically, it is very doubtful that a warning such as a "knock on the roof," which is in and of itself a deadly attack as was seen in the case of the Shuhaibar family, can be considered a precaution. People cannot be attacked with the claim that it was done to warn them and they cannot be expected to understand, in the fog of war, that the attack directed at them is in fact a warning.
12. All of the incidents listed in this letter, and others not mentioned, require detailed and separate examinations to determine whether they violated the laws of war. However, **the aggregate picture of the incidents, in our opinion, requires an urgent examination of the suspected violations of the laws of war at the level of offensive policy and the rules of engagement.** As you well know, violations of the laws of war by the opposing party to a conflict do not justify or warrant the violations of Israel's obligations under these laws. It is your responsibility and under your authority to act to prevent these violations by Israel.

13. We therefore request of you:

A. To instruct the political and command leadership responsible for commanding the troops to refrain from taking actions that may violate the laws of war, and specifically activities that raise suspicion of severe violations of these laws.

B. To update us as to whether and how an effective review by the Attorney General of the Military Advocate General has been conducted during Operation Protective Edge, and whether you intend to examine the legality of the offensive policy, as it has been formulated with the presumed involvement of the Military Advocate General, taking into account *inter alia* this policy's painful results, and considering the conclusions and recommendations of the Turkel Commission on this issue.

C. To act to establish an external, independent, effective investigation mechanism to investigate decisions and guidelines of the political and command leadership regarding the manner the war has been conducted, as required by international law and as raised by High Court of Justice ruling 769/02 **The Public Committee against Torture in Israel v. The Government of Israel** (December 14, 2006).

14. Please respond with the necessary urgency as to how you intend to act on these matters.

Respectfully,

**Tamar Feldman, Attorney**

Director of the Human Rights in the Occupied Territories Department  
Association for Civil Rights in Israel

Cc: Military Advocate General, via fax: 03-5694526