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For the attention of: Right Hon Philip Hammond MP

23 July 2014

Dear Mr. Hammond,

**Re: Vital need for UK government action on accountability and justice following the current military offensive on Gaza**

We write further to our previous letter dated 9 July 2014, in which we urged the UK government to take all necessary diplomatic measures to urgently halt the latest resort to sustained military action in the Gaza Strip, following Israel's announcement on 8 July 2014 that they had launched a military operation codenamed Operation Protective Edge.

Two weeks on, and the large-scale of civilian suffering caused by Israel's intensive military attacks on the densely populated occupied Palestinian territory of Gaza is an outrage of immense proportions. As of the date of this letter, nearly 550 civilian Palestinian lives have been lost and close to 3,500 injuries have been sustained in circumstances which has led the United Nations Office for the Coordination of Humanitarian Affairs in their daily reports to 'raise their concerns about respect for the principles of distinction and proportionality under international humanitarian law'.

LPHR shares this extremely serious concern. Israel's use of overwhelming military force on Gaza appears to have been conducted with a complete disregard or unacceptable distortion of the civilian protection provisions embedded within international humanitarian law and international human rights law. Similarly, the apparently indiscriminate firing of rockets by armed parties in Gaza into Israel is an acute concern, and we note that two Israeli civilians have deplorably been killed due to these attacks.

We welcome the statement on 12 July 2014 by your predecessor, William Hague MP, in which he expressed 'the need for an immediate de-escalation and restoration of the November 2012 ceasefire', and his 'deep concern about the number of civilian casualties and the need for all sides to avoid further civilian injuries and the loss of innocent life'. We further welcome your statement on 17 July 2014 that Israel 'has to act proportionately and it needs to take all steps to minimise civilian casualties'. However, we respectfully must highlight that both



statements are silent on the crucial issue of legal accountability for possible serious violations of international humanitarian law.

We are deeply concerned that the marked absence of accountability and implementation of the rule of law after previous assaults on Gaza has emboldened the parties, Israel in particular, to carry out what appear to be grave violations of international humanitarian law over the last two weeks, resulting in enormous civilian suffering. We therefore urge the UK government to lead the international community in crucially implementing accountability, justice and the primacy of the rule of law following the cessation of this devastating military conflict.

### **Deliberate and systematic targeting of family homes and other civilian facilities**

From the outset of the current military offensive, LPHR has expressed their extremely serious concern at the credible evidence of deliberate and systematic targeting and destruction of family homes and other civilian facilities by Israeli military strikes, resulting in significant civilian loss of life and injuries. As of the date of this letter, the number of houses destroyed is nearly 500, with hundreds further that are severely damaged. The Red Cross reports that the water supply is dangerously low following Israeli bombings of the water infrastructure, while doctors warn of a shortage of medical supplies. As will be explored in a further section below, LPHR takes the position that these military attacks appear to be unlawful because either these civilian objects cannot be a legitimate military target, or the likelihood of civilian casualties would be disproportionate to the military gain.

Some of these deeply concerning military attacks, based on daily reports from the Palestinian Center for Human Rights which are corroborated by other Palestinian and Israeli human rights organisations, can be very briefly stated here:

- *Military attack on the Kaware'a family home at around 13:30pm on 8 July 2014*

Eight Palestinian civilians, including six children, were killed when gathered in and around a house demolished by an Israeli military air strike. A further 28 civilians, including 19 children and a woman, were injured.

- *Military attack on the Hamad family home at around 23:30pm on 8 July 2014*

Six Palestinian civilians, including a 16 year old girl and three women, were killed when an Israeli missile struck a house belonging to Abdul Hafez Hamad, an activist in the military wing of Islamic Jihad.

- *Military attack on a beachside coffee shop at around 23:00pm on 9 July 2014*

Nine Palestinian civilians were killed while they were in a beach coffee shop watching a football world cup match.

- *Military attack on the al Haj family home at around 01:20am on 10 July 2014*



Mahmoud Al Haj, his wife, and their six children were killed when their house was destroyed by an Israeli military strike. Several adjacent houses sustained severe damage, injuring 23 people.

- *Military attack on the al Ghannam family home at around 5:15am on 11 July 2014*

Abdul Raziq Hassan al-Ghannam, his wife, his son, his daughter and his relative were killed when three Israeli missiles struck their family home. A further son and seven neighbours were injured.

- *Military attack on the Mebaret Palestine for the Disabled in Beit Lahia at around 04:55am on 12 July 2014*

Two women with severe disabilities, Suha Musbah Abu Sa'da, 39; and 'Ola Hussein Enshassi, 31, were killed after an Israeli military strike on a disabilities residential centre for people with severe and complex impairments. Another three women with disabilities and a supervisor were injured.

- *Military attack on the al-Batash family home at around 22:30pm on 12 July 2014*

17 members of the al-Batash family were killed after an Israeli military strike on their family home.

- *Military attack on children from the Bakr family near Gaza City port at around 3:30pm on 16 July 2014*

Four young children from the Bakr family were killed by Israeli military strikes while playing on the beach near Gaza City port: Ahed Attaf Bakr, 10; Zakariya Ahed Sobhi Bakr, 10; Mohammed Izzat Bakr, 11; and Ismail Mohammed Sobhi Bakr, 10. Another two children were injured.

- *Military attack on Al-Wafa rehabilitation and geriatric hospital in Gaza City at around 21:00pm on 17 July 2014*

Al Wafa hospital was shelled by Israeli military strikes while the hospital was filled with paralysed patients. The evacuation process started after the military strikes. No one was hurt and the hospital is now destroyed.

- *Military attack on the Abu' Jame family home in Khan Younis at around 20:00 hours on 20 July 2014*

25 members of the Abu' Jame family, including 18 children and five women, two of whom were reportedly pregnant, were killed after an Israeli plane fired a missile at a



three-storey house in Bani Suheila, eastern Khan Yunis, in which a number of families live, destroying the house.

- *Military attack on the al-Aqsa Martyrs Hospital at around 14:40pm on 21 July 2014*

Three patients and companions were killed after Israeli tanks firing a number of shells at the third floor of al-Aqsa Martyrs Hospital. Another 40 Palestinians were wounded.

### **Intensive military attack on the densely populated civilian area of al-Shuja'iya**

LPHR's extremely serious concern that civilians are being indiscriminately and disproportionately targeted by Israeli military attacks was reinforced by the large number of civilian deaths and injuries caused by the intensive Israeli military attacks on the al-Shuja'iya neighbourhood in Gaza City on the early morning of Sunday 20 July 2014. The Palestinian Center for Human Rights has documented 65 civilian fatalities resulting from this specific military bombardment, including 13 women, 15 children and two paramedics. Additionally, 200 civilians, including 40 children and 65 women, are reported to have been injured.

### **International humanitarian law**

As you are aware, a fundamental principle of international humanitarian law is that civilians and civilian objects may never be the object of a military attack. Civilian objects are defined as anything not considered a military objective, and include homes, apartments, businesses, places of worship, hospitals, schools, and cultural monuments. Civilian objects are legally prohibited against direct attacks, unless they are being used for military purposes and thus become military objectives. Where there is doubt about the nature of an object, the warring party must presume it to be civilian.

A corollary of this principle is indiscriminate attacks are prohibited under international humanitarian law. Indiscriminate attacks are those that strike military objectives and civilians or civilian objects without distinction. A further corollary of this principle is attacks which violate the principle of proportionality are prohibited. An attack is disproportionate if the likelihood of civilian casualties would be disproportionate to the military gain.

LPHR is extremely concerned that the deliberate and systematic Israeli military attacks against family homes and other civilian facilities violate the international law prohibition on indiscriminate attacks and/or are disproportionate. These military attacks appear to be unlawful because either these civilian objects cannot be a legitimate military target, or the likelihood of civilian casualties would be disproportionate to the military gain.

LPHR's acute concern about the use of indiscriminate and disproportionate military attacks during this conflict is also applicable to the 'ground offensive' phase of Israel's military operation intensively targeting civilian populated areas, such as the attack on the al-Shuja'iya neighbourhood of Gaza City outlined above.



As you will also be aware, the intentional or reckless targeting of civilian targets constitutes a war crime where it has resulted in murder and serious injury and/or the extensive and wanton destruction of civilian property.

### **Investigations and Accountability**

LPHR is concerned that Israel's record for conducting credible criminal investigations into the conduct of their military against Palestinians has proven to be wholly inadequate following the military offensives on Gaza codenamed Operation Cast Lead in 2008/2009 and Operation Pillar of Defence in 2012.

After both operations, Israeli and Palestinian human rights organisations reported on the significant defects of Israeli criminal investigations following the submission of cases containing credible evidence of suspected war crimes. For example, the Israeli human rights organisation, B'Tselem, noted in a 2012 report that:

*'Three years after the end of the operation, the dozens of MPIU [Israeli Military Police Investigation Unit] investigations opened into cases of harm to civilians have yet to yield results. The Military Advocate General Corps has created a haze around them, preventing any possibility of examining their effectiveness. The Corps' responses to B'Tselem, combined with media reports, indicate that three indictments have been filed against soldiers who took part in the operation: for theft of a credit card from a Palestinian civilian, for use of a nine-year-old Palestinian child as a human shield, and for "manslaughter of an anonymous person".'*

The B'Tselem report further states:

*'There has never been a serious investigation into the suspicions raised by B'Tselem and additional Israeli, Palestinian and international organizations regarding breaches of international humanitarian law by the military during the operation. Most of B'Tselem's demands for investigation were not met. The investigations that were opened did not, to B'Tselem's knowledge, address the responsibility of high-ranking commanders, but rather focused on the conduct of individual soldiers.*

*Israel's choice to investigate only isolated incidents, and not the military's conduct as a whole during the operation, gives cause for concern that persons responsible for extremely grave breaches of law have not been questioned. Among the issues that have not been investigated are the following: i) the policy that guided the forces during the offensive; ii) the legality of the orders given to the soldiers; iii) the choice of targets for bombing; iv) the means taken to protect the civilian population.'*

It is a grave concern that this fundamental failure to conduct effective criminal investigations into possible war crimes and crimes against humanity emboldens the repetition of apparently unlawful military actions which cause large-scale civilian casualties and property destruction. We therefore urge the UK government to lead the international community in ensuring Israeli and Palestinian authorities conduct a credible and independent criminal investigation to



international standards of promptness, effectiveness and transparency, into each case where there is reason to suspect the commission of a serious violation of international humanitarian law. This is necessary to enable full legal accountability for any proven unlawful military actions, and to provide justice to the many innocent victims of this conflict.

In this context, we welcome your important statement on 17 July 2014 entitled 'affirming UK's commitment to international action against war criminals', in which you expressed:

*'The UK's continuing support for the International Criminal Court is based on the need to end impunity, ensure accountability and see justice done, as well as the importance of preventing further atrocities. Ending impunity is an essential step towards building a safer world for all. I am proud that the UK is at the forefront of global efforts to strengthen international justice and to ensure the voices of victims will always be heard.'*

### **Imperative UK government actions**

In light of the vital need to restore primacy to the rule of law through obtaining full legal accountability and justice for serious international humanitarian law violations, we urge the UK government to further build upon its principled commitment to strengthen international justice by leading the international community in taking the following imperative actions:

1. Take all necessary diplomatic measures to achieve the urgent cessation of hostilities which has been dominated by the apparently unlawful use of military force against civilians and civilian objects;
2. Urge Israeli and Palestinian authorities to conduct a credible and independent criminal investigation to international standards of promptness, effectiveness and transparency, into each case in this conflict where there is reason to suspect the commission of a serious violation of international humanitarian law;
3. Ensure the establishment of a UN fact finding mission to impartially investigate and report on the violations of international human rights and humanitarian law by all parties, with recommendations for appropriate action to the parties and to the UN; and
4. Provide full diplomatic support for Palestine to seek access to the International Criminal Court to investigate and prosecute alleged serious international crimes committed on Palestinian territory.

We shall be grateful for your urgent intervention and your written response.

Yours sincerely,

Tareq Shrourou  
**Director, Lawyers for Palestinian Human Rights**