



Rt Hon Alistair Burt MP
Minister of State for the Foreign and Commonwealth Office
London SW1A 2AH

02 May 2018

Dear Minister Burt,

Re: Targeting of Palestinian children at the protests on the Gaza border and monitoring Israel's investigation into its military's use of force

We write following our first letter on the Gaza protests on 3 April 2018 to express specific serious concern at the reprehensible targeting of children by live sniper fire. Since 30 March 2018, four children have been shot dead by Israeli forces, three of them by a bullet to either the head or neck. A further 233 children have been injured by live ammunition, with some sustaining injuries that will result in lifelong debilitating disabilities, including through the amputation of limbs.

Palestinians participating in the protests, including children, are considered to be civilians whom must be policed using a law enforcement legal framework that respects and protects their fundamental human rights under international human rights law. These include the right to life, the prohibition on cruel and inhuman treatment, and the rights to freedom of peaceful assembly and association. Children enjoy additional human rights protections under the UN Convention on the Rights of the Child.

As noted in our previous letter, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials is widely regarded as an authoritative statement of international rules governing use of force in law enforcement operations. They provide that the use of force and firearms by a State against an individual can only be deployed in exceptional situations, namely where an individual is posing an imminent threat of death or serious injury.

We share the deep concern expressed by the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, in his statement last Friday 27 April that: "It is difficult to see how children, even those throwing stones, can present a threat of imminent death or serious injury to heavily protected security force personnel."

This is shockingly illustrated by the killing of Mohammed Ayoub, a 14-year-old resident of Al Falouja neighborhood in Jabalia refugee camp in the North Gaza district, who was shot with a live bullet to his head from Israeli forces at a demonstration in eastern North Gaza on 20 April. He is filmed being picked up and rescued from the site of his killing at a distance far away from the border with Israel.

We concur with the analysis of the Executive Director of B'Tselem, Hagai El-Ad, who stated in an open letter to the UN Secretary General on 26 April: "These horrific casualty figures – the 35 Palestinians killed and 1,500 injured by live ammunition – are the predictable outcome of the manifestly illegal rules of engagement implemented during the demonstrations, of ordering soldiers to use lethal gunfire against unarmed demonstrators who pose no mortal



danger. These orders are unlawful under both international law and Israeli law. Responsibility for these fatal outcomes rests with the policy makers and – above all – with Israel’s prime minister, defense minister and chief of staff.”

Against this appalling context, we welcome the UK's latest statement at the UN Security Council on 26 April in which it expressed support for an “independent and transparent investigation”, and its call that “those responsible should be held to account if wrongdoing is found”. Although Israel has properly rescinded its initial rejection of an investigation, we are very doubtful that its probe will conform with international standards on the duty to investigate. This serious concern is based on assessments made by Israeli and Palestinian human rights organisations, the Government of Israel appointed Turkel Commission, international human rights bodies, and the UN Commission of Inquiry into the Gaza Conflict 2014. The latter stated in its significant 2015 report: “[T]he Commission is concerned about a number of procedural, structural and substantive shortcomings, which continue to compromise Israel's ability to adequately fulfil its duty to investigate.” (paragraph 618)

The UN Commission elaborated a host of concerns in this regard, including on the key criterion of independence. The UN Commission stated in its 2015 report: “[A] central failing of [Israel's military] investigation system stems from the dual responsibilities of the Military Advocate General, both as the legal advisor to the Chief of General Staff and other military commanders and as the superior of disciplinary law and of criminal investigations in the military”. (paragraph 619)

In light of the substantial concern that Israel's probe will fail to meet international standards for a genuine investigation, and the grave concern over allegedly unlawful use of force against protesters in Gaza, including children, we urge the UK to consider the following:

1. Monitor Israel's investigation so as to assess compliance with international standards of independence, impartiality, thoroughness, effectiveness, promptness and transparency;
2. Consider the steps it will take if Israel's investigation does not meet international standards, including in particular, expressly supporting the only viable alternative which is for Palestinian victims, survivors and their families to pursue legal accountability and justice through the International Criminal Court; and
3. Urge Israeli forces urgent and full compliance with international human rights law obligations and the law of law enforcement when engaged with Palestinians, including children, whom are exercising their fundamental right to freedom of assembly.

We would be grateful for your careful consideration of the above and for your written reply.

Yours sincerely,

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Lawyers for Palestinian Human Rights