



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

For the urgent attention of: Rt Hon Alistair Burt MP

14 August 2018

Dear Minister Burt,

Urging the end of Israel's use of military airstrikes against family homes in Gaza following the killing of a pregnant woman and her baby daughter

As lawyers committed to the protection and promotion of Palestinian human rights, we urge the British government's intervention in ending Israel's deliberate and/or reckless military airstrikes against family homes in Gaza. This follows the killing of 23-year-old Enas Abu Khamash, who was in the ninth month of pregnancy, and her 18-month old daughter, Bayan Abu Khamash, following an airstrike on their home in Wadi al Saqla at 01:30am on Thursday 9 August 2018. Enas' husband, Mohammed Abu Khamash, suffered shrapnel injuries.

The targeting by Israeli military forces of a civilian home in Gaza, resulting in civilian loss of life, is a grave reminder of the Israeli forces' deliberate and widespread targeting of family homes during their 2014 military offensive on Gaza that resulted in massive loss of civilian life, including 370 children and 241 women killed inside their homes. Over 19,000 family homes in Gaza were destroyed or severely damaged during the 2014 military offensive, and 100,000 people were displaced by the end of the conflict.

In a comprehensive complaint submitted in September 2014 with Al Mezan Centre for Human Rights (Gaza) to the UN independent Commission of Inquiry on the 2014 Gaza Conflict, LPHR asserted that the large-scale, deliberate and systematic targeting of family homes indicated that international humanitarian law and human rights law violations were committed, which may amount to war crimes and crimes against humanity. Our [critical legal analysis](#) was replicated by the Commission of Inquiry in its June 2015 [report](#).

The 2015 report found that in a number of cases of air strikes on residential buildings, 'there is little or no information available to explain why residential buildings, which are *prima facie* civilian objects immune from attack, were considered to be legitimate military objectives. In relation to each attack on residential buildings that resulted in significant destruction and civilian deaths or injuries, the onus is on Israel to explain the factual elements that rendered the houses or the person(s) present inside a military target.' The same principles must apply to this attack – namely, the onus should be on Israel to explain on what basis the Khamash family home was considered a legitimate military target.



In April 2016, we wrote to the then Foreign Secretary, Philip Hammond, raising the issue of apparently unlawful military airstrikes against family homes following the killing of two children, Yasin Abu Khusah, aged 9, and Israa Abu Khusah, aged 6, whilst they were asleep in their beds in a makeshift shelter on the early morning of 12 March 2016. In our letter, we cited the following analysis of the fatal military airstrike from B'Tselem:

"Israel's longstanding policy of air strikes on the Gaza Strip reflects decision makers' inconceivable disregard for the lives of the people living there. Israel is duty-bound to do everything in its power to avoid injury to civilians. Yet despite repeated civilian fatalities and casualties, Israel refuses to change its policy and continues to adopt a distorted and far-reaching interpretation of the provisions of international humanitarian law in order to justify its position. This policy is unlawful and immoral..."

"[H]aving failed to [take steps to ensure civilians in the vicinity would come to no harm], the decision makers in both the military and political echelons bear liability for the children's death."

The circumstances surrounding the killing of Enas Abu Khamash and her baby daughter, Bayan, are yet to be fully established. However, we are deeply concerned that the attack may indicate a similar disregard for the lives of civilians in Gaza as that recorded by B'Tselem in 2016, the 2015 Commission of Inquiry report and our complaint submission with Al Mezan in September 2014. Our concerns arise in light of the appalling empirical record of Israel's use of apparently unlawful military airstrikes against civilians' homes in Gaza resulting in the loss of life and injury to civilians.

In the circumstances, we would ask that you take the following actions:

1. Call for a credible, independent and transparent criminal investigation by Israeli authorities into the killing of Enas Abu Khamash and her baby daughter, Bayan, so that legal accountability is secured for any military and political official who may be criminally liable for their deaths. However, as we are concerned that Israeli authorities are unwilling to carry out such an investigation to international standards, we would also urge that you call for an independent and transparent investigation by an international body;
2. Urge that Israel ends its apparently unlawful use of military airstrikes against family homes in Gaza on the basis that such airstrikes a) demonstrate disregard for civilians and civilian objects in breach of international humanitarian and human rights law, and b) appears to be carried out in violation of relevant international humanitarian law principles of distinction, proportionality and precaution;
3. Urge, in bilateral relations, public statements and before international fora, the ongoing need for Israeli authorities to undertake genuine criminal investigations and ensure legal accountability where there is evidence of any individual being criminally responsible for the widespread and systematic targeting of family homes that caused massive civilian loss of life during Israel's military offensive on Gaza in 2014;



4. Expressly support all Palestinian victims, survivors and their families who are pursuing legal accountability and justice through the International Criminal Court in relation to the deliberate and pervasive military targeting of family homes in Gaza in 2014.

We would be grateful for your careful consideration of this urgent matter and for your reply.

Yours sincerely,

Tareq Shrourou (Director) and Natalie Sedacca
Lawyers for Palestinian Human Rights