

Secretary of State John Kerry  
Department of State  
2201 C Street NW  
Washington, DC 20520

September 2015

Dear Secretary Kerry,

We write to express our concern about Israel's use of U.S. weapons to commit gross human rights abuses against Palestinians in the Gaza Strip and in the West Bank, in violation of U.S. laws, including the Arms Export Control Act and the "Leahy Law". Just over one year has passed since the end of the devastating 2014 Gaza Conflict, which according to the United Nations was responsible for the deaths of 2,205 Palestinians and 77 Israelis. We continue to be deeply troubled that 547 Palestinian children and one Israeli child were among those killed during the 51-day war, and that domestic investigative mechanisms appear unable to genuinely investigate such crimes. We request investigation into such incidents in order to reveal the source of the weaponry and to hold the perpetrators accountable.

An independent United Nations commission presented a report to the UN Human Rights Council (UNHRC) in Geneva on June 29 that details international law violations committed by both Israeli forces and Palestinian armed groups in Gaza during the conflict. The [report](#), presented by Mary McGowan Davis, commissioner of the UN Independent Commission of Inquiry on the 2014 Gaza Conflict (UN COI), highlights at least fifteen specific attacks carried out by Israeli forces involving U.S.-provided AGM 114 Hellfire missiles and Joint Direct Attack Munitions (JDAM) in violation of international law. The report also noted, "[I]mpunity prevails across the board for violations of international humanitarian law and international human rights law allegedly committed by Israeli forces."

The UNHRC [endorsed the report](#) in a resolution passed by a 41 to one vote on July 3, which called for accountability for violations by all perpetrators. The resolution expressed alarm "that long-standing systemic impunity" has allowed for repeated violations of international law without consequence. The resolution reaffirmed "the need to ensure accountability" to end impunity and deter further violations, and called on Israeli and Palestinian authorities "to cooperate fully" with the International Criminal Court and "any subsequent investigation that may be opened."

All eight European Union member states of the UNHRC, including Germany, the United Kingdom, and France, voted in favor of the resolution. Regrettably, though we share the concern of the international community regarding impunity for the violations allegedly committed by Israeli forces, the U.S. was the only member of UNHRC to oppose the resolution.

We have compiled testimonies from incidents of grave human rights abuses committed by Israeli forces with U.S. weapons in 2014, particularly the violation of the right to life of Palestinian children. We also highlight the failures of domestic Israeli investigative mechanisms for holding perpetrators accountable for such abuses. The incidents included in this letter are not exhaustive, but rather representative of the alleged Israeli violations of U.S. law into which we request independent U.S. investigation. The

information and testimonies below were released in a 2015 report by Defense for Children International Palestine (DCIP) entitled [\*Operation Protective Edge: A War Waged on Children\*](#). This report details the high price paid by children during Israel's assault on Gaza last summer, provides legal analysis for the alleged violations of international humanitarian law, and indicates U.S. military assistance.

During and in the aftermath of the war, DCIP independently verified the deaths of 547 Palestinian children among those killed in Gaza, 535 of them as a direct result of Israeli attacks. Nearly 68 percent of the children killed by Israeli forces were 12 years old or younger. DCIP found "overwhelming and repeated evidence of international humanitarian law violations committed by Israeli forces. These included direct attacks on children, and indiscriminate and disproportionate attacks on civilian homes, schools, and residential neighborhoods."

Israel killed 225 Palestinian children in warplane airstrikes and 13 children in Apache helicopter-fired missile or rocket attacks. Israel's air force uses F-16 and F-15 fighter jets, along with Apache helicopters, and Hellfire missiles fired from both fighter jets and helicopters, all of which are provided to Israel with U.S. military aid.

In one troubling case, an Israeli airstrike on the Abu Jami's residential building in Khan Younis on July 20, 2014 killed 18 children. The father, Tawfiq, described the aftermath of the attack to DCIP: "I went to the European Hospital, and then to the morgue. And when I opened the chambers, I saw them. They were deformed and turned into pieces. I could not recognize my children, except Ahmad, 7, whose injury was in the head; Razan, 14, whose injury was in the head and abdomen; and Aya, 10, whose injury was in the head. I also recognized my wife Sabah who was eight month pregnant. I could not recognize the rest of my children, or my nephews or my nieces...O my beloved children. They are all gone. I wish I had gone too and did not have to see such scene. They were growing up before my eyes. I wanted to send them to college and help them start their own families. I miss them so much. Without them life is tasteless." The UN COI concluded that the airstrike on the Abu Jami residential building was carried out using a JDAM, which the U.S. government has approved for export sale to Israel under the Arms Export Control Act.

In another disturbing case, an Apache helicopter-fired missile hit a residential building in Beit Hanoun on July 18, 2014 killing five children. Older brother Ahmad Abu Jarad told DCIP: "We found my sister Samar crushed with blood coming out of her nose, ears and head, and her neck was smashed. My other sister, Ahlam, was also dead. She was all charred, only part of her hair was not burned. The scene was excruciatingly painful. We recovered my brother Naim, who was still breathing at the time. His right leg was cut off, his private parts were cut off, too, and his entire body was smashed. He died before we could put him inside the ambulance."

Unfortunately, Israel's killing of Palestinian children with U.S. weapons is not limited to the Gaza Strip. In 2014, Israeli forces shot dead a total of 11 Palestinian children with live ammunition across the West Bank, including East Jerusalem, according to evidence collected by DCIP. We are disturbed by Israel's killing of Nadeem Nawara, 17, and Mohammad Daher, 16, on May 15, 2014 outside of Ofer military prison. Video footage and forensic analysis obtained by DCIP show that the children posed no threat to Israeli forces at the time they were shot dead with bullets fired by M-16 rifles. In this case, we know that

the specific Israeli military unit responsible for these killings is the 38th Company of the Israeli Border Police stationed at Ofer military base. This unit should be investigated by the State Department for its potential violation of the “Leahy Law”. If a “Leahy Law” violation occurred, then this military unit should be ineligible to receive future U.S. military aid and training and the soldiers involved should be denied U.S. visas as stipulated by the law.

We also wish to draw your attention to the report by Breaking the Silence entitled [\*This is How We Fought in Gaza: Soldiers’ testimonies and photographs from Operation “Protective Edge” \(2014\)\*](#). In this report, Israeli soldiers repeatedly testify about the widespread use of Caterpillar D9 bulldozers—provided to Israel with U.S. military aid—to wantonly destroy Palestinian homes. It is estimated that Israel damaged or destroyed 100,000 homes in the Gaza Strip last summer.

One sergeant serving in a mechanized infantry unit in Deir al-Balah testified: “We figured out pretty quick that every house we leave, a D9 shows up and razes it...At no point until the end of the operation, until the unit commander debriefed us, did anyone explain to us the value of razing houses.” Another first sergeant operating in the same neighborhood testified: “By the time we got out of there, it was all like a sandbox. Every house we left—and we went through three or four houses—a D9 (armored bulldozer) came over and flattened it...The D9 was an important working tool. It was working nearly non-stop.”

A first sergeant in an armored corps unit testified how “there’s nothing at all left of Juhar al-Dik.” When asked what caused the destruction, he replied: “Most of it was D9s (armored bulldozers). They just took down all the orchards. Not a single tree left. They worked on it for three weeks. When they didn’t have a specific job like leading our way or opening up a specific route for us or some other mission, they just went and flattened things. I don’t know what their specific order was, but they were on a deliberate mission to leave the area razed, flattened.”

Another first sergeant in an infantry unit operating in the northern Gaza Strip testified: “I don’t know how they pulled it off, the D9 operators didn’t rest for a second. Nonstop, as if they were playing in a sandbox. Driving back and forth, back and forth, razing another house, another street. And at some point there was no trace left of that street.”

Unfortunately, despite the establishment of a new Fact Finding Assessment Mechanism (FFAM) within the Israeli military, no military officer or commander has yet been held accountable for any of the direct attacks on civilians or civilian infrastructure described above. Though charged with assessing “exceptional incidents” that occurred during the military operation, the FFAM remains within the hierarchy and internal organization of the Israeli military. Such lack of independence substantially deviates from international law standards, which aim for impartiality in investigations. Even in the well-documented case of the four Bakr children who were killed last summer by an Israeli attack while playing soccer on a Gaza City beach, the MAG recently closed the investigation on the case concluding that the military had not engaged in any wrongdoing.

Human rights organizations based in Israel, such as Adalah – The Legal Center for Arab Minority Rights in Israel (Adalah), found that complaints of alleged war crimes submitted to the Israeli military advocate

general (MAG), such as the killing of the Bakr boys on Gaza beach, are either not investigated at all, or are closed following investigations that fail to comply with international standards. A detailed analysis of the failures of Israel's domestic investigative mechanisms to secure accountability for Palestinian victims was included in [Adalah's 2015 submission to the UN COI](#).

We are convinced that accountability is the foundation for non-repetition of human rights violations, and that the U.S. must play an active role in ensuring that our military assistance contributes to the protection of human rights and security rather than to ongoing war and instability.

No country—especially a country that is considered to be an ally of the United States—should be above the law. We trust that you will examine these reports thoroughly, using the Leahy vetting process and other existing mechanisms for tracing the human impact of U.S. military assistance. We look forward to the outcome of your investigations on whether Israel's actions violate U.S. laws, and thank you for reporting back to us on any violations and intended steps towards accountability.

Sincerely,

Members of Congress