

Date: March 24, 2013

Our No.: 10008, 10010

To:

Mr. Moshe Yaalon  
Minister of Defense

via fax: 03-6976218

**URGENT!**

Dear Sir,

**Re: Restrictions on movement into and out of the Gaza Strip following rocket fire toward Sderot**

our letter dated February 26, 10008, 10010, your letter dated March 27 2013, N-SR-002641-270213

1. On February 26, 2013, I wrote to your predecessor, Mr. Ehud Barak, asking that the security authorities refrain from using collective punishment measures against the civilian population in the Gaza Strip. The letter was sent after travel restrictions were imposed in response to a rocket fired toward Ashkelon. Despite the fact that a month has elapsed, I have received no response to my letter in reference.
2. Unfortunately, the policy against which I cautioned in my previous letter was not revoked, but has rather taken root. This is a policy of **limiting the movement of civilians and civilian goods to and from Gaza as a response to shootings carried out by combatants, aimed at southern Israel.**
3. On Thursday, March 21, 2003, a barrage of rockets was fired toward communities in southern Israel. Words cannot adequately state the severity of targeted or indiscriminate shootings toward the civilian population in Israel by combatants in Gaza. There is no justification, nor can there be justification, for putting civilians into the cycle of violence. It is a grave breach of international humanitarian law, which may be considered a war crime. Hamas, as the entity in control of the Gaza Strip, bears responsibility for this shooting, as do those who actually fired the rockets.
4. Because of the severity of the prohibition against deliberately harming civilians, the steps taken by Israel, also aimed against civilians, are entirely unacceptable.
5. On Thursday, in response to a shooting by combatants, you ordered the closure of the Kerem Shalom crossing, used for transferring goods into and out of the Gaza Strip, and new restrictions were imposed on Palestinian travel through the Erez crossing. The fishing zone, which was extended to six nautical miles late last year, was reduced to three nautical miles. These restrictions are still in effect today.

6. As is known, international law allows Israel, which still controls most of Gaza's crossings, to restrict movement into and out of the Gaza Strip only for concrete security reasons, and even then, it must balance the security imperative against its obligations towards Gaza's civilian population. **However, in the last month, there appears to be a new policy toward the Gaza Strip, in which Israel is openly restricting civilian movement to and from Gaza, not because of a concrete security necessity, but rather as a punitive step taken against the civilian population – in direct response to fire by combatants.**
7. International humanitarian law expressly prohibits collective punishment. The residents of the Gaza Strip, who wish to do business, make a living and reunite with their families may not be punished for the actions of combatants or the failure of the Gaza regime to fulfil its duty to prevent the shootings.
8. I fear the new policy trend is not just a breach of international law, but it is also contrary to statements made by security officials that the allowing continuous civilian access to and from the Gaza Strip and safeguarding the civilian population in Gaza - are clearly within Israeli interests.
9. Ever since the Turkish flotilla incident in May 2010, security officials have repeatedly expressed their desire to allow the civilian population in Gaza to lead normal lives and not to punish civilians for the actions of combatants or political actors. Only recently, when Hamas caused the closure of the Kerem Shalom crossing on March 4, 2013, state officials condemned the closure and warned, in a foreign ministry announcement, that "The Kerem Shalom Crossing is the primary commercial goods crossing into the Gaza Strip, and therefore serves a vital function for the civilian population in Gaza". Additionally, a month ago, the office of the Coordinator of Government Activities in the Territories announced that steps taken to increase the volume of goods transferred into Gaza "increase revenues for the Palestinian Authority treasury by collecting customs and other taxes", as opposed to goods coming through the tunnels.
10. If that is the case, it is unclear why the "punishment" that Hamas gets for the rocket fire is an increase in the tax money it collects through the tunnels.
11. Refraining from restricting civilian movement as a response to shooting correctly reflects the demands of international law and has been accompanied by statements from security officials that punishing the civilian residents of the Gaza Strip does not promote Israel's security interests and does not form part of its policy toward Gaza.
12. I recall our position that all access restrictions that are not necessary for Israel's security needs must be revoked. These include preventing travel between Gaza and the West Bank, prohibiting the sale of goods from Gaza in Israel and the West Bank and the restrictions on transporting building materials. Steps that have been taken in this direction over the past months and

years had raised our hopes that civilian access to and from Gaza would be expanded.

13. The access restrictions imposed now and those that were imposed a month ago raise grave concerns that we are heading back to the dark years of 2007-2010, when Israel openly closed crossings as a direct response to shooting incidents - punishing Gaza's residents under the pretext that this would help achieve political and security goals. Only two days ago the Prime Minister disavowed the access restrictions in place in those years in his telephone apology for mistakes made during the flotilla incident. If Israel openly intends to put a "price tag" on shootings by combatants, then it is dangerously regressing to a policy that breaches international law and has been harshly criticized by the international community and by Israeli security experts who believe harming civilians offers no security benefits.
14. I call upon you to completely disassociate the freedom of movement of Gaza's civilian residents from measures taken against combatants and to immediately cancel the newly imposed restrictions. I expect Israel's response to shootings at southern cities to express its distaste for deliberate harm to innocent civilians.
15. In addition, I ask you to provide the reasons for imposing the access restrictions I mentioned in this letter and in my letter of February 26, 2013. How do these restrictions comport with the obligations of the State of Israel toward the civilian population of Gaza? How do they comport with the declaration of the Coordinator of Government Activities in the Territories that "we are committed to distinguishing between the population and terror elements"? Do these restrictions indicate a new direction for Israel's policy toward Gaza?

Respectfully,

Sari Bashi, Adv.  
Executive Director