



19 May 2004

To:

Adv. Osnat Mandel

Director, Supreme Court Division

Office of the Attorney General

[Ministry of Justice]

Jerusalem

**RE: Killing of Civilians in Rafah**

I hereby approach you regarding the attacks on the civilian population and civilian targets by the [Israeli] army in Rafah:

1. Since the onset of military operations in the city of Rafah and its surrounding refugee camps, many civilians have been killed as a result of direct shelling and shooting from helicopter gunships and soldiers.
2. This afternoon, thousands of civilians were attacked by military shelling and helicopter gunships. The civilians were attending a protest demonstration against the military attacks in Rafah and the killing of innocent civilians. As a result of the attack, at least eight civilians were killed, most of them minors, while tens of others were injured.
3. The chain of events in Rafah, the daily killing of civilians and direct attacks on civilian targets in the area, indicate a consistent policy of targeting the civilian population, which violates international humanitarian law and the laws of war, and constitutes a "grave breach" of the Geneva Convention IV. These actions also constitute war crimes under the Rome Statute.
4. The Israeli military is in effective control of not only Rafah but the whole of the Gaza Strip, and thus, is responsible for attending to the welfare of the entire population under its control. The facts on the ground reflect that the military has

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transformed the entire civilian population in Rafah into a military target for military operations.

5. Article 51 (4) of Protocol I to the Geneva Convention IV states:

Indiscriminate attacks are prohibited. Indiscriminate attacks are:  
(a) those which are not directed at a specific military objective;  
(b) those which employ a method or means of combat which cannot be directed at a specific military objective; or  
(c) those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol;

and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.

6. The events which occurred in Rafah today constitute a direct attack on a civilian population, prohibited under Article 51 (2) of Protocol I to the Geneva Convention IV:

The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

*Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.*

7. Thus, you are hereby requested to act in order to bring to an end to the aforementioned military policy, which is in violation of international law with regard to attacks on civilians and civilian targets in the area of Rafah. In addition, I hereby request that you immediately issue instructions to the [Israeli] army in the [Gaza] area regarding international law and the prohibition on attacking civilian populations.

8. I await your prompt response.

Respectfully,

Suhad Bishara, Advocate