

**Statement by B'nai B'rith
Human Rights Council
Agenda Item 7, General Debate, 29 June 2015
Delivered by Mr. Geoffrey Corn**

Thank you, Mr. President. My name is Geoffrey Corn; I am a Professor of Law and the U.S. Army's former senior expert on the Law of Armed Conflict.

I commend the Report for recognizing that all parties to armed conflict must implement and respect the Law of Armed Conflict. While objective critiques of military operations can contribute substantially to the understanding, implementation, and evolution of the Law of Armed Conflict, findings and recommendations must be based on credible information, legal interpretation, and operational expertise. Otherwise, any critique risks distorting the essential balance between mitigating the suffering of armed conflict and the dictates of military necessity; a balance that has defined the law since its inception.

I will highlight three concerns I believe indicate the Report lacks this foundation. First, it treats questionable interpretations of this law as conclusive, and fails to apply the principle of distinction comprehensively. Specifically, it omits assessment of how an enemy's systemic failure to distinguish himself from civilians, and in fact deliberately exploit the perception of civilian status, impacts the reasonableness of attack judgments.

Second, the Report reflects common but invalid tendencies toward "effects based" condemnations of targeting judgments. While combat effects are relevant when considering compliance with the Law of Armed Conflict, effects cannot substitute for recreating the tactical and operational context of attack decisions to determine whether they were reasonable. Limited access to operational information may make this assessment process difficult, or even impossible, but it does not justify substituting effects as the touchstone of legality.

Third, the Report is not based on credible military operational expertise. This is exacerbated by nature of a tactical context of close combat in an urban environment against an enemy who deliberately refuses to comply with its distinction obligation. Judgments in the Report related to military advantage are simply attenuated from the true nature of military operations, and therefore undermine the credibility of ultimate legality assessments.

Thank you, Mr. President.