

UNITED NATIONS

Press Release

UN Fact Finding Mission finds strong evidence of war crimes and crimes against humanity committed during the Gaza conflict; calls for end to impunity

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NEW YORK / GENEVA – The UN Fact-Finding Mission led by Justice Richard Goldstone on Tuesday released its long-awaited report on the Gaza conflict, in which it concluded there is evidence indicating serious violations of international human rights and humanitarian law were committed by Israel during the Gaza conflict, and that Israel committed actions amounting to war crimes, and possibly crimes against humanity.

The report also concludes there is also evidence that Palestinian armed groups committed war crimes, as well as possibly crimes against humanity, in their repeated launching of rockets and mortars into Southern Israel.

The four members of the Mission* were appointed by the President of the Human Rights Council in April with a mandate to "To investigate all violations of international human rights law and international humanitarian law that might have been committed at any time in the context of the military operations that were conducted in Gaza during the period from 27 December 2008 and 18 January 2009, whether before, during or after."

In compiling the 574-page report, which contains detailed analysis of 36 specific incidents in Gaza, as well as a number of others in the West Bank and Israel, the Mission conducted 188 individual interviews, reviewed more 10,000 pages of documentation, and viewed some 1,200 photographs, including satellite imagery, as well as 30 videos. The mission heard 38 testimonies during two separate public hearings held in Gaza and Geneva, which were webcast in their entirety. The decision to hear participants from Israel and the West Bank in Geneva rather than *in situ* was taken after Israel denied the Mission access to both locations. Israel also failed to respond to a comprehensive list of questions posed to it by the Mission. Palestinian authorities in both Gaza and the West Bank cooperated with the Mission.

The Mission found that, in the lead up to the Israeli military assault on Gaza, Israel imposed a blockade amounting to collective punishment and carried out a systematic policy of progressive isolation and deprivation of the Gaza Strip. During the Israeli military operation, code-named "Operation Cast Lead," houses, factories, wells, schools, hospitals, police stations and other public buildings were destroyed. Families

are still living amid the rubble of their former homes long after the attacks ended, as reconstruction has been impossible due to the continuing blockade. More than 1,400 people were killed during the military operation.

Significant trauma, both immediate and long-term, has been suffered by the population of Gaza. The Report notes signs of profound depression, insomnia and effects such as bed-wetting among children. The effects on children who witnessed killings and violence, who had thought they were facing death, and who lost family members would be long lasting, the Mission found, noting in its Report that some 30 per cent of children screened at UNRWA schools suffered mental health problems.

The report concludes that the Israeli military operation was directed at the people of Gaza as a whole, in furtherance of an overall and continuing policy aimed at punishing the Gaza population, and in a deliberate policy of disproportionate force aimed at the civilian population. The destruction of food supply installations, water sanitation systems, concrete factories and residential houses was the result of a deliberate and systematic policy which has made the daily process of living, and dignified living, more difficult for the civilian population.

The Report states that Israeli acts that deprive Palestinians in the Gaza Strip of their means of subsistence, employment, housing and water, that deny their freedom of movement and their right to leave and enter their own country, that limit their rights to access a court of law and an effective remedy, could lead a competent court to find that the crime of persecution, a crime against humanity, has been committed.

The report underlines that in most of the incidents investigated by it, and described in the report, loss of life and destruction caused by Israeli forces during the military operation was a result of disrespect for the fundamental principle of "distinction" in international humanitarian law that requires military forces to distinguish between military targets and civilians and civilian objects at all times. The report states that "Taking into account the ability to plan, the means to execute plans with the most developed technology available, and statements by the Israeli military that almost no errors occurred, the Mission finds that the incidents and patterns of events considered in the report are the result of deliberate planning and policy decisions."

For example, Chapter XI of the report describes a number of specific incidents in which Israeli forces launched "direct attacks against civilians with lethal outcome." These are, it says, cases in which the facts indicate no justifiable military objective pursued by the attack and concludes they amount to war crimes. The incidents described include: Attacks in the Samouni neighbourhood, in Zeitoun, south of Gaza City, including the shelling of a house where soldiers had forced Palestinian civilians to assemble; Seven incidents concerning "the shooting of civilians while they were trying to leave their homes to walk to a safer place, waving white flags and, in some of the cases, following an injunction from the Israeli forces to do so;" The targeting of a mosque at prayer time, resulting in the death of 15 people.

A number of other incidents the Report concludes may constitute war crimes include a direct and intentional attack on the Al Quds Hospital and an adjacent ambulance depot in Gaza City.

The Report also covers violations arising from Israeli treatment of Palestinians in the West Bank, including excessive force against Palestinian demonstrators, sometimes resulting in deaths, increased closures, restriction of movement and house demolitions. The detention of Palestinian Legislative Council members, the Report says, effectively paralyzed political life in the OPT.

The Mission found that through activities such as the interrogation of political activists and repression of criticism of its military actions, the Israeli Government contributed significantly to a political climate in which dissent was not tolerated.

The Fact-Finding Mission also found that the repeated acts of firing rockets and mortars into Southern Israel by Palestinian armed groups "constitute war crimes and may amount to crimes against humanity," by failing to distinguish between military targets and the civilian population. "The launching of rockets and mortars which cannot be aimed with sufficient precisions at military targets breaches the fundamental principle of distinction," the report says. "Where there is no intended military target and the rockets and mortars are launched into civilian areas, they constitute a deliberate attack against the civilian population."

The Mission concludes that the rocket and mortars attacks "have caused terror in the affected communities of southern Israel," as well as "loss of life and physical and mental injury to civilians and damage to private houses, religious buildings and property, thereby eroding the economic and cultural life of the affected communities and severely affecting the economic and social rights of the population."

The Mission urges the Palestinian armed groups holding the Israeli soldier Gilad Shalit to release him on humanitarian grounds, and, pending his release, give him the full rights accorded to a prisoner of war under the Geneva Conventions including visits from the International Committee of the Red Cross. The Report also notes serious human rights violations, including arbitrary arrests and extra-judicial executions of Palestinians, by the authorities in Gaza and by the Palestinian Authority in the West Bank.

The prolonged situation of impunity has created a justice crisis in the Occupied Palestinian Territory that warrants action, the Report says. The Mission found the Government of Israel had not carried out any credible investigations into alleged violations. It recommended that the UN Security Council require Israel to report to it, within six months, on investigations and prosecutions it should carry out with regard to the violations identified in its Report. The Mission further recommends that the Security Council set up a body of independent experts to report to it on the progress of the Israeli investigations and prosecutions. If the experts' reports do not indicate within six months that good faith, independent proceedings are taking place, the Security Council should

refer the situation in Gaza to the ICC Prosecutor. The Mission recommends that the same independent expert body also report to the Security Council on proceedings undertaken by the relevant Gaza authorities with regard to crimes committed by the Palestinian side. As in the case of Israel, if within six months there are no good faith independent proceedings conforming to international standards in place, the Council should refer the situation to the ICC Prosecutor.

The full report can be found on the web page of the Fact Finding Mission:
<http://www2.ohchr.org/english/bodies/hrcouncil/specialsession/9/FactFindingMission.htm>

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Professor Christine Chinkin, Professor of International Law at the London School of Economics and Political Science; member of the high-level fact-finding mission to Beit Hanoun (2008).

Ms. Hina Jilani, Advocate of the Supreme Court of Pakistan; former Special Representative of the Secretary-General on the situation of human rights defenders; member of the International Commission of Inquiry on Darfur (2004).

Colonel Desmond Travers, former Officer in Ireland's Defence Forces; member of the Board of Directors of the Institute for International Criminal Investigations.