

## **Highlights of the Report of the United Nations Fact Finding Mission on the Gaza Conflict – Goldstone Report**

### **Introduction**

For 22 days and nights (December 27, 2008 – January 18, 2009) Gaza was subjected to the most intense aerial assault, rocket launches and ground fighting. More than 1400 Palestinians of whom 412 were children or teenagers under 18 and 100 women lost their lives, compared to 13 Israelis of whom only 3 were civilians. The stated Israeli objective was to stop rocket fires directed at Israeli targets, but there was no doubt that the real objective was to break the will of the Palestinian people to resist occupation.

The suffering of the civilian population of Gaza left the conscience of the world bleeding as pictures of death and destruction began to emerge despite Israeli barring of international journalists from entering Gaza. The scale of destruction shocked even the most ardent supporters of Israel. The international community was calling for action to put an end to de facto Israeli impunity for violations of international law and crimes against humanity. The pressure became so intense that on 12 January 2009, the United Nations Human Rights Council (UNHCR) adopted Resolution S-9/1, deciding in para. 14 among other things:

to dispatch an urgent, independent international fact-finding mission, to be appointed by the President of the Council, "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."

The President appointed Justice Richard Goldstone, former judge of the Constitutional Court of South Africa and former Prosecutor of the International Criminal Tribunals for the former Yugoslavia and Rwanda, to head the four-man Mission.

### **Investigation**

The mission convened on 4 May in Geneva and commenced work. Goldstone stated that the focus of the investigation would be on "an objective and impartial analysis of compliance of the parties to the conflict with their obligations under international human rights and humanitarian law, especially their responsibility to ensure the protection of civilians and non-combatants," adding "I believe that an objective assessment of the issues is in the interests of all parties, will promote a culture of accountability and could serve to promote greater peace and security in the region.

The mission members conducted two field visits to Gaza entering through the Rafah Border Crossing from Egypt having been refused access to Israel and the West Bank by the Government of Israel who refused to cooperate with the Mission. The head of the mission Judge Goldstone said that in the course of the investigation the committee conducted 188 interviews, reviewed 10,000 pages of documents and inspected 1,200 photographs.

## **Findings**

Following its 3-month investigation, on 15 September 2009, a lengthy 574 page report by Judge Goldstone's UN inquiry team was released, officially titled "Human Rights in Palestine and Other Occupied Arab Territories: Report of the United Nations Fact Finding Mission on the Gaza Conflict" . The report concluded that serious violations of international human rights and humanitarian law were committed by Israel in the context of its military operations in Gaza from December 27, 2008 to January 18, 2009, and that Israel committed actions amounting to war crimes, and possibly crimes against humanity, including use of white phosphorous against civilians causing horrific injuries. In the lead up to the Israeli military assault on Gaza, the Mission said it found that Israel had 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," more than 1,400 people were killed, including women and more than 340 children, and houses, factories, wells, schools, hospitals, police stations and other public buildings were destroyed.

The report concluded 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 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, and could lead a competent court to find that the crime of persecution, a crime against humanity, has been committed.

"The Government of Israel has a duty to protect its citizens," Justice Goldstone told the Human Rights Council, "That in no way justifies a policy of collective punishment of a people under effective occupation, destroying their means to live a dignified life and the trauma caused by the kind of military intervention the Israeli Government called Operation Cast Lead. This contributes to a situation where young people grow up in a culture of hatred and violence, with little hope for change in the future. Finally, the teaching of hate and dehumanization contributes to the destabilization of the whole region," he said.

## **Recommendations**

As well as calling for justice, the Members of the Mission urged the Human Rights Council to take action that would ensure the protection of victims, prevent further violence and improve the living conditions of the affected people. Goldstone urged the 47 Member States of the Human Rights Council to implement a number of measures, including referral of the Mission's report to the UN Security Council.

The Mission report recommends that the 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 by the Mission.

The Mission 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.

## **Aftermath**

The UN high commissioner for human rights, Navi Pillay, endorsed the report. She stated she supported the report's recommendations, including its call for urgent action to counter impunity – meaning that Israel and Hamas must investigate and prosecute those who committed war crimes. She also contended that "holding war criminals accountable and respect for human rights are not obstacles to peace, but rather the preconditions on which trust and, ultimately, a durable peace can be built."

On 16 October 2009, the UNHRC passed a resolution endorsing the report and chastised Israel for failing to cooperate with the UN mission. 25 of the UNHRC members, mostly developing countries, voted in favor of the resolution; the United States and five European countries opposed; eleven mostly European and African countries abstained and Britain, France and three other members of the 47-nation body declined to vote. On 4 November 2009, the United Nations General Assembly passed a resolution calling for independent investigations to be conducted by Israel and Palestinian armed groups on allegations of war crimes described in the report. Both resolutions received wide support among members of the Organization of the Islamic Conference and the Non-Aligned Movement, while many western countries opposed or abstained from the vote. Israel refused to cooperate with the Mission and has rejected its findings.

The UN Security Council rejected Libya's request on 7 October to hold an emergency session to consider the content of the report by UNHRC fact-finding mission, but the report became the focus of the Security Council's monthly Mideast meeting on 14 October. Council diplomats say there is little chance that the Security Council will take any action, primarily because of objections by the United States, which said the report should be handled by the Human Rights Council. All of the permanent members of the Security Council, which wield veto powers, oppose involving the Security Council in the report.

To view the full text of the report in all official UN languages, including Arabic and English, please refer to [www.ohchr.org](http://www.ohchr.org)