

To His Excellency
Dr. Ali Abdussalam Treki
President of the United Nations General Assembly

Jerusalem, 10 February 2010

Re: Domestic investigations on alleged violations of international humanitarian and human rights law committed during the Gaza Conflict

Your Excellency,

On the occasion of the submission of the initial findings of the Secretary-General on the domestic investigations conducted to date, as recommended in the Report of the UN Fact-Finding Mission on the Gaza Conflict (the Report) and endorsed by the General Assembly, we would like to draw your attention to our concerns about the effectiveness of the endeavours undertaken by the concerned parties.

As local and international human rights organisations committed to promote and ensure respect for human rights and justice, we are concerned that the investigations were not “independent, credible and in conformity with international standards [required for] serious violations of international humanitarian and international human rights law”, as requested by the General Assembly resolution adopted on 5 November 2009.

Regrettably, the information and material available to date suggest that the parties responsible for investigating the violations committed during the Gaza conflict have not met the standards prescribed by international instruments, such the UN Principles on the Effective Prevention and Investigation of Extra Legal, Arbitrary and Summary Executions and the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

The investigations carried out by the Israeli military authorities fall short of complying with international standards of proper investigations into alleged violations of international law. These endeavours were carried out by persons who have hierarchical or institutional connections with the alleged perpetrators. The majority of incidents of alleged abuse have not been criminally investigated but only probed through operational debriefings. Criminal investigations are being conducted in other cases by members of the IDF legal division, which was involved in targeting policies that may themselves require investigation.

After over a year from the conclusion of the military operation, these limited investigations have resulted in insufficient accountability measures. To date, only one soldier has been prosecuted for stealing a credit card and some others were merely reprimanded. According to the Israeli Government’s Report, two officers have been disciplined for firing explosive shells into populated areas, in violation of superior orders; however, Israeli army statements contradicted this claim. Moreover, the investigations have neglected to scrutinise the policy of use of force, which would entail the examination of military planning and the means and methods in the execution of operations. Such measures fail to comply with Israel’s legal obligations under international law.

The findings of the Israeli investigations, conducted under insufficient public scrutiny, have raised serious doubts about their credibility. For example, the indications that the only operating flour mill in the Gaza Strip was hit by ground shells are inconsistent with available visual material, which supports the Report findings that the attack was also conducted by aircraft. In light of the above, the Israeli investigations cannot be sanctioned as independent, effective, transparent and prompt as required.

Likewise, the information available on the investigations carried out by Palestinian representatives, both in the Gaza Strip and in the West Bank, provides no evidence of compliance with the required international standards. The Gaza authorities issued a statement asserting that rocket attacks against Israel were directed only at military targets, a claim disproved by all available evidence. While their report was not made available in sufficient time to allow for a proper examination, we will provide further comments in due course. In the West Bank, the Palestinian Authority has equally failed to comply with the requirements of the recommendations of the Report, its action to date having been limited to the appointment of a committee and some statements.

We welcomed the establishment of the UN Fact-Finding Mission and its Report as the response to the acute call for accountability in the region, not only to serve the cause of justice but also as an essential deterrent to prevent violations and consequent loss of lives and destruction from reoccurring. The mechanisms listed in the recommendations of the Report, including the establishment of an escrow fund for Palestinian victims, imply not only the responsibilities of Israeli and Palestinian authorities but also those of other actors, such as UN bodies and institutions, and the High Contracting Parties to the Geneva Conventions. We consider the meaningful implementation of the recommendations of the Report to be a crucial challenge for the entire UN system, which is called upon to demonstrate its effective power in advancing justice and the rights of victims, as an indispensable basis for peace in the region.

At the opening of the 64th Session of the General Assembly, you noted that “blockades [...] are fruitless: they exacerbate antagonism and rebellion”. We share your views and we call upon you and the General Assembly you preside to take expeditious measures towards lifting the blockade that has been imposed on the civilian population of the Gaza Strip for more than two years. Deplorably, the protracted blockade, condemned as a form of collective punishment, and the extensive destruction of homes and industrial property carried out during the Gaza conflict have not been adequately addressed and investigated, despite the grave toll they are exacting on the civilian population of the Gaza Strip.

We urge you to use all means at your disposal to hasten the process of accountability indicated in the Report of the UN Fact-Finding Mission on the Gaza Conflict. The defective results of the internal investigations conducted to date coupled with the impossibility of the Secretary-General to provide conclusive assessments on the nature of such investigations would strongly support the need to promptly establish an independent committee of experts. The committee, mandated with the task of monitoring and evaluating the effectiveness of domestic investigations, should be composed of international experts on international law and criminal investigations.

We thank you for your attention to this matter.

Yours Sincerely,

Adalah

Addameer - Prisoners Support and Human Rights Association

Aldameer Association for Human Rights – Gaza

Al-Haq

Al Mezan

Arab Association for Human Rights - HRA

BADIL Resource Center for Palestinian Residency and Refugee Rights

Defence for Children International-Palestine Section

Housing and Land Rights Network - Habitat International Coalition

International Association of Democratic Lawyers

National Lawyers Guild - International Committee

Israeli Committee Against House Demolitions (ICAHD)

Lawyers for Palestinian Human Rights (LPHR)

Palestinian Centre for Human Rights (PCHR)

Physicians for Human Rights – Israel

Public Committee Against Torture Israel (PCATI)

War on Want

Women's Centre for Legal Aid and Counselling (WCLAC)