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Goldstone report: Statement issued by members of UN mission on Gaza war

Statement issued by members of the UN fact-finding mission to Gaza, May-September 2009

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In recent days some articles and comments appearing in the press with respect to the report of the [United Nations \(UN\) fact-finding mission on the Gaza conflict of 2008-2009](#) have misrepresented facts in an attempt to delegitimise the findings of this report and to cast doubts on its credibility.

The mission that comprised four members, including Justice Richard Goldstone as its chair, came to an end when it [presented its report](#) to the UN human rights council in September 2009. The report of the mission is now an official UN document and all actions taken pursuant to its findings and recommendations fall solely within the purview of the [United Nations](#) general assembly which, along with the human rights council, reviewed and endorsed it at the end of 2009.

Aspersions cast on the findings of the report, nevertheless, cannot be left unchallenged. Members of the mission, signatories to this statement, find it necessary to dispel any impression that subsequent developments have rendered any part of the mission's report unsubstantiated, erroneous or inaccurate.

We concur in our view that there is no justification for any demand or expectation for reconsideration of the report as nothing of substance has appeared that would in any way change the context, findings or conclusions of that report with respect to any of the parties to the [Gaza](#) conflict. Indeed, there is no UN procedure or precedent to that effect.

The report of the fact-finding mission contains the conclusions made after diligent, independent and objective consideration of the information related to the events within our mandate, and careful assessment of its reliability and credibility. We firmly stand by these conclusions.

Also, it is the prerogative of the UN to take cognisance of any evidence subsequently gathered under domestic procedures that it finds credible and in accordance with international standards. Over 18 months after publication of the report, however, we are very far from reaching that point.

The mandate of the mission did not require it to conduct a judicial or even a quasi-judicial investigation. The mission and the report are part of a truth-seeking process that could lead to effective judicial processes. Like all reports of similar missions of the UN, it provided the basis for parties to conduct investigations for gathering of evidence, as required by international law, and, if so warranted, prosecution of individuals who ordered, planned or carried out international crimes.

In the case of the Gaza conflict, we believe that both parties held responsible in this respect, have yet to establish a convincing basis for any claims that contradict the findings of the mission's report.

The report recommended that proper investigations and judicial processes should ideally be carried out first of all at the domestic level, with monitoring by the UN. If these proved inadequate, it laid down a roadmap for the continuation of such processes at the international level. In line with these recommendations, the UN human rights council appointed a [committee of independent experts](#) to monitor the independence, effectiveness and genuineness of any domestic proceedings carried out to investigate crimes and violations of international law pointed out in the mission's report.

Many of those calling for the nullification of our report imply that the final report by the follow-up committee's two members, Judge Mary McGowan Davis and Judge Lennart Aspergren, presented to the human rights council in March 2011, somehow contradicts the fact-finding mission's report or invalidates it.

In the light of the observations of this committee such claims are completely misplaced, and a clear distortion of their findings. The committee's report states that, according to available information, Israel has conducted some 400 command investigations into allegations by the fact-finding mission and other organisations. Command investigations are operational, not legal, inquiries and are conducted by personnel from the same command structure as those under investigation. Out of these, the committee reports that 52 criminal investigations into allegations of wrongdoings have been opened. Of these, three have been submitted for prosecution, with two of them resulting in convictions (one for theft of a credit card, resulting in a sentence of seven months' imprisonment, and another for using a Palestinian child as a human shield, which resulted in a suspended sentence of three months). The third case, related to allegations of deliberate targeting of an individual waving a white flag, is still ongoing.

The committee has expressed serious concerns about the late start and slow pace of the proceedings, their insufficient transparency and the participation of victims and witnesses. Out of the 36 incidents relating to Gaza described in the fact-finding mission report, more than one third remain unresolved or without a clear status over two years after the conflict. The committee concluded that the slow progress could seriously impair the effectiveness of the investigations and prospects of achieving justice and accountability. Therefore, the mechanisms that are being used by the Israeli authorities to investigate the incidents are proving inadequate to genuinely ascertain the facts and any ensuing legal responsibility.

In addition, with regard to the issue of the policies guiding Operation Cast Lead, the committee states that there is "no indication that Israel has opened investigations into the actions of those who designed, planned, ordered and oversaw Operation Cast Lead". In other words, one of the most serious allegations about the conduct of Israel's military operations remains completely unaddressed.

We regret that no domestic investigations at all have been started into any of the allegations of international crimes committed by members of Palestinian armed groups in Gaza which have fired thousands of rockets into southern Israel. The committee observes the same in its report.

We consider that calls to reconsider or even retract the report, as well as attempts at misrepresenting its nature and purpose, disregard the right of victims, Palestinian and Israeli, to truth and justice. They also ignore the responsibility of the relevant parties under international law to conduct prompt, thorough, effective and independent investigations. We regret the personal attacks and the extraordinary pressure placed on members of the fact-finding mission since we began our work in May 2009. This campaign has been clearly aimed at undermining the integrity of the report and its authors. Had we given in to pressures from any quarter to sanitise our conclusions, we would be doing a serious injustice to the hundreds of innocent civilians killed during the Gaza conflict, the thousands injured, and the hundreds of thousands whose lives continue to be deeply affected by the conflict and the blockade.

The report has triggered a process that is still under way and should continue until justice is done and respect for international human rights and humanitarian law by everyone is ensured.

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