



**אגודת האומות המאוחדות, ישראל**

(מסונפת לאיגוד הבינלאומי של אגודות האומות המאוחדות)

**UNITED NATIONS ASSOCIATION OF ISRAEL**

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Dear Sir,

**RE: Response of United Nations Association of Israel (UNA Israel) to the  
Report of United Nations Fact-Finding Mission on the Gaza Conflict**

UNA Israel is an objective, independent and non-political body, whose members pursue the principles of the UN Charter for the benefit of all peoples. Hence, UNA Israel considers it to be most appropriate to respond to the Report, which serves more terrorism in the Middle East as well as in the entire world, rather than the Israeli legal system and the traditional policy of purity of arms of Israel Defence Forces.

UNA Israel is shocked and amazed by the one-sided Report of United Nations Fact-Finding Mission on the Gaza Conflict published on 15 September 2009. The appointment of the Fact Finding Mission by the Human Rights Council to investigate the events of the conflict that took place between 27 December 2008 and 18 January 2009 in the Gaza strip ( known as the "Cast Lead Operation") gave serious reasons for concern.

Since its inception in 2006 the Council, having among its members governments notorious for their repression, has adopted more resolutions against Israel than any other country the world over, despite grave abuses and flagrant violations of human rights by other countries. Those resolutions were worse than the anti-Israeli resolutions of the Council's predecessor, the Commission on Human Rights, throughout its sixty-years existence.

In those resolutions which condemned Israel, the Council not only criticised Israel, but it granted impunity to Hamas, Hezbollah and their state proponents. These concerns were exacerbated by the biased and one-sided mandate of the Fact Finding Mission and its behaviour. Some of its members had clear political views on issues pertaining to the investigation, thus prejudging the enquiry before it had even began.

The Report challenges Israel's democratic values and rule of law and makes unsubstantiated claims about its intent. The Report reaches conclusive

judicial determinations of guilt despite the lack of sensitive intelligence information which Israel did not feel able to furnish the Mission with.

The Report ignores Israel's inherent right of self-defense. Between 2001 and December 2008, thousands of rockets were launched by Hamas and other terrorist groups in Gaza purposely on civilian population and targets, including school children, in the south part of Israel. The situation escalated after the Hamas terrorist regime seized control in Gaza in the summer of 2007. After responding with restraint for seven years, Israel had no alternative other than to recourse to its right to protect its citizens. Throughout those seven years, first the Commission and later the Council overlooked the suffering of the Israeli victims. The Report refers to the rocket attacks themselves in the most cursory manner .

The Report also ignores Israel's extensive efforts, even in the midst of fighting, to adhere to basic principles of humanitarian international law and to maintain humanitarian standards. While it does, reluctantly, acknowledge Israel's "significant efforts" to issue advance warnings to civilians before approaching attacks, it does not find any of these efforts to be effective.

Notwithstanding Israel's system of checks and balances, which enable her to investigate impartially its own conduct, the Report is also critical of Israeli internal investigations.

At the same time the Report all but ignores the strategy of Palestinian and Hamas and their violations of human rights and humanitarian laws. Such terrorist groups deliberately turn densely populated civilian areas in Gaza into their battlefield when they operate within the civilian population with their weapons, missiles and missiles-launchers. Yet, the Report rejects the idea that there was an intention to put the civilians at risk. Despite overwhelming evidence that Hamas and other terrorist groups abused civilian facilities, the Report recurrently stated that it could find no evidence of such activities. By turning a blind eye to such tactics the Report rewards them and terrorism and

legitimize the terror. Astonishingly, the word "terrorist" is almost entirely absent. The Report creates a dangerous precedent that will make it difficult for democracies to combat terrorism.

Under those circumstances when Hamas operated from within hospitals and mosques, booby-trapped civilian areas, to blend in with Palestinian non-combatants, Israel was forced to respond. Unfortunately, a harm was caused to civilians as an unintended consequence of pursuing a military goal. Israel endeavoured to minimize the collateral damage even at the expense of endangering its own soldiers.

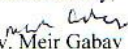
The Report seeks to instigate a political campaign against Israel and to involve the Security Council, the General Assembly, the International Criminal Court, the Human Rights Council, and the entire international community in such a campaign.

The Report adopts double standards, attributing credibility to every anti-Israel allegation and dismissing allegation of any wrongdoing by Hamas. In so doing, the Report totally distorts the real situation that exists. Such an attitude is even more ludicrous, taking into account Hamas' behaviour to its own people. In stark contrast to human rights and humanitarian law Hamas own leaders commended children and women who acted as human shields.

Regrettably, the Fact-Finding Mission failed to apprehend the new era that Israel faces in its daily struggle against terror. Not only Israel is challenged with a new reality, but the traditional laws of the war should be adapted to the new "rules of the game". The parties to the Conflict are no longer sovereign states abiding by the rules of law, but a democratic state that respects the law and terrorist groups, known for blatant infringement of accepted norms. The Israeli Supreme Court, whose highly developed jurisprudence on international humanitarian law is renowned, rendered a remarkable description of that reality:

"... in a period of terrorist attacks that have been continuing for years, the immediate and main victim of the state of hostilities is also the civilian population. But in so far as the operations being carried out against Israel are concerned, we are not speaking of accidental harm or collateral damage, but of persistent terrorist attacks that directly target the civilian population with the intention of harming innocent civilians. This is the difference between the State of Israel, a democratic state fighting for its survival by the methods that the law permits, and the terrorist organizations that seek to destroy it." (HCJ 9132/07 Jaber Al-Bassiouni Ahmed and others v.1. Prime Minister 2, Minister of Defence).

Yours Sincerely,

  
Adv. Meir Gabay  
President - UNA Israel