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Israel / Occupied Palestinian Territories: Ban misses crucial opportunity to advance accountability for Gaza conflict

UN Secretary-General Ban Ki-moon's failure to make an assessment of Israeli and Palestinian investigations into violations of international law that occurred during the conflict in Gaza and southern Israel just over a year ago is deeply disappointing and a missed opportunity to help secure accountability for the conflict's hundreds of victims, said Amnesty International today.

In a report dated 4 February, Ban Ki-moon indicated that "no determination can be made" on whether either the Israelis or Palestinians had implemented UN General Assembly resolution 64/10 of 5 November 2009. The Secretary-General merely passed the Israeli and Palestinian responses he had received to members of the General Assembly without an assessment of whether the parties had met the required standards. The resolution had urged both sides to carry out investigations "that are independent, credible and in conformity with international standards" and requested the Secretary-General to report within three months on their implementation, "with a view to considering further action".

The Secretary-General explained his lack of action by the fact that "processes initiated" by the Israeli and Palestinian authorities were "ongoing". However, Amnesty International believes that the information he had received was sufficient to show clearly that the steps taken by both sides have been completely inadequate and that this message should have been conveyed to them in the report.

Amnesty International urges the UN Secretary-General to remedy the situation by immediately preparing an independent assessment of the steps being taken by Israel and the Palestinian side to address accountability. He should request input from the UN High Commissioner for Human Rights and consider appointing other independent experts in international humanitarian and human rights law to assist him in this task. Amnesty International wrote to Ban Ki-moon on 20 November 2009 with a similar recommendation.

Such a substantive assessment by Ban Ki-moon should be made available to the General Assembly and the Security Council in the coming months and provide a solid basis for decisions on further action that are necessary to secure accountability for both sides. If the parties remain unable or unwilling to take the steps required by the General Assembly, this may include an eventual referral of the situation in Gaza by the UN Security Council to the International Criminal Court.

Amnesty International's assessment is that the responses presented to the UN Secretary-General by Israel and Palestinian representatives demonstrate that neither side has taken the necessary steps to conduct investigations "that are independent, credible and in conformity with international standards".

The organization has described the response of the Israeli authorities as "totally inadequate", since investigations undertaken by them to date have failed to meet "international standards of independence, impartiality, transparency, promptness and effectiveness" (see Amnesty

International's press release of 2 February 2010: www.amnesty.org/en/news-and-updates/latest-israeli-response-gaza-investigations-totally-inadequate-20100202).

The official Palestinian response to Ban Ki-moon was submitted by the Permanent Observer Mission of Palestine to the UN and conveyed a letter from Prime Minister Salam Fayyad of the Fatah-led Palestinian Authority in the West Bank. The letter indicates that an investigative commission has recently been established in the West Bank but that investigations have yet to be conducted into specific allegations of violations of international law committed during the conflict. Documents made public this week by the Ministry of Justice of the Hamas de facto administration in Gaza, by way of a response to the General Assembly's call for investigations, provide no evidence of investigations which comply with international standards and focus on either denying the allegations of abuses committed by Palestinian armed groups or providing justifications for those violations.

Background

The report by UN Secretary-General Ban Ki-moon (A/64/651) was submitted pursuant to General Assembly resolution 64/10 of 5 November 2009. In it he acknowledged receiving documents from the Israeli and Palestinian representatives at the UN containing responses on steps taken by both sides to implement the resolution.

Rather than making a substantive assessment, the Secretary-General only expressed his "hope that General Assembly resolution 64/10 has served to encourage investigations by the Government of Israel and the Palestinian side that are independent, credible and in conformity with international standards".

General Assembly resolution 64/10 was adopted as follow-up to the report of the UN Fact Finding Mission on the Gaza Conflict, headed by Justice Richard Goldstone. That report, issued on 25 September 2009, documented evidence that both sides had committed war crimes and other serious violations of international law. The findings echoed those of an Amnesty International team that investigated alleged violations in Gaza and southern Israel during and in the immediate aftermath of the conflict, in which hundreds of Palestinian civilians, including some 300 children, and three Israeli civilians were killed.

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