

**Advance unedited version**

**Report of the High Level Fact Finding Mission established under Resolution S-3/1**

12 June 2007

**Introduction**

1. At its Third Special Session on 15 November 2006, the Council adopted Resolution S-3/1 in which it, among other things, called for a High Level Fact-Finding Mission (HLFFM) to be established and for the mission to travel to the town of Beit Hanoun in the occupied Palestinian territory of Gaza following Israeli military operations carried out there around 8 November 2006. The Mission was mandated, inter alia, to assess the situation of victims; address the needs of survivors; and make recommendations on ways and means to protect Palestinian civilians against any further Israeli assaults.
2. The President of the Council appointed Archbishop Desmond Tutu of South Africa to lead the HLFFM, and Professor Christine Chinkin of the United Kingdom of Great Britain and Northern Ireland as a member of the HLFFM. In accordance with the resolution, the Secretary-General and the United Nations High Commissioner for Human Rights provided all administrative, technical and logistical assistance required to enable the fact-finding mission to fulfill its mandate promptly and efficiently.

**The first attempt**

3. The members of the Mission gathered in Geneva in early December 2006 and requested the cooperation of the Israeli Government in pursuing its mandate, in particular the granting of the necessary visas for the Mission (including secretariat staff) to enter Israel. Awaiting a response, the Mission spent a week in consultations with various actors and receiving briefings from United Nations and other organizations working in the occupied Palestinian territory of Gaza and in Beit Hanoun in particular. A list of meetings and briefings held during this week appears as Annex 1 to the report. The schedule of meetings planned for the Mission in Israel and Gaza appears as Annex 2.
4. On Monday 4 December, Archbishop Tutu met with the Permanent Representative of Israel to the United Nations in Geneva. During this meeting the Archbishop expressed the Mission's desire to meet with both Palestinian and Israeli officials and non-governmental organizations with a view to hearing the views of all. The Archbishop also signaled that the Mission would need to leave Geneva on Sunday 10 December 2006 at the latest in order for him to return to Cape Town by 16 December to attend to previous commitments. A later departure for Israel would not allow for the Mission to be completed appropriately. Following the meeting with the Permanent Representative, visas to enter Israel were sought, indicating that the arrival in Israel would be 10 December. No formal response to the Mission's request for

visas was received (nor to date has been received) from the Israeli authorities, which for the Mission indicated a refusal to issue visas. Reluctantly, the Mission was abandoned. Archbishop Tutu wrote a letter to the Council dated 11 December 2007 in which he outlined these developments and asked the President to bring them to the attention of members of the Council.

5. Once it became clear in December 2006 that the Mission would not be permitted to travel to Beit Hanoun via Israel, the HLFFM considered the most appropriate means of giving effect to the mandate given to it by the Council. In doing so, the Mission took into account a number of factors, including the following.
  - a. The events of early November 2006 in Gaza, and in Beit Hanoun in particular, required an investigation into possible serious human rights violations by Israel. The Council's decision to dispatch the Mission to Beit Hanoun reflected its deep concern at the corroborated reports of the killing and injuring of civilians by the Israel Defense Force (IDF). The information presented to the Mission during its briefings in Geneva in early December confirmed the gravity and urgency of the situation.
  - b. The mandate of the Mission not only explicitly required that it 'travel to Beit Hanoun' but that it 'assess the situation of victims' and 'address the needs of survivors'. Each of these elements required that the Mission have access to victims, survivors and witnesses in Beit Hanoun and elsewhere.
  - c. The Mission carefully investigated the possibility of assessing the situation of victims and survivors by visiting places outside Israel and Gaza where those individuals may have been removed for medical treatment. Inquiries revealed that of 51 individuals injured in the incident at Beit Hanoun, all except six were treated in the occupied territory of Gaza. Of those six who were removed for treatment, three were hospitalized in Israel and three in Egypt. Clearly some of the victims of the attack were not among the dead or injured, for example, family members of those killed. For these individuals, the possibility of them leaving Gaza was extremely limited. It is fair to say that the continued military occupation of Gaza itself was the greatest factor frustrating the Mission, preventing as it did victims of the Beit Hanoun incident from leaving the territory, and preventing the Mission from entering Gaza. Thus, to meet with and assess the situation of victims and to address the needs of survivors, the Mission had no choice but to travel to the occupied Palestinian territory of Gaza.
  - d. Access to Gaza and to Beit Hanoun might have been possible via Egypt and the Rafah Crossing, thus obviating the need for official visas to enter Israel. The Mission investigated this possibility closely, and raised the issue with the Permanent Representatives of Egypt and Israel in Geneva, with United Nations actors in Gaza and with United Nations security officials. Ultimately the Mission reluctantly accepted that entry via the Rafah Crossing was not feasible for a number of reasons.

- i. First, the Rafah Crossing was open only to Palestinian trade and not to pedestrians. Further, from the 1 June 2006 until 11 December 2006, the Crossing had opened only 23 times, and in the month of November 2006 had opened only on two days.
  - ii. Second, crossing at Rafah required the cooperation of Israeli authorities, which may not have been forthcoming in light of the statements to the Mission by the Permanent Representative of Israel mentioned earlier.
  - iii. Third, at the time, the United Nations Department of Safety and Security did not authorize United Nations missions to make the crossing at Rafah for security reasons.
  - iv. Finally, entering Gaza via Egypt would frustrate the Mission's expressed desire to meet with Israeli officials and organizations.
  
6. The Permanent Representative of Israel proposed that the members of the HLFFM enter Israel in their personal capacities rather than as members of a Mission constituted by the Human Rights Council. This proposal was rejected for a number of reasons, principal among them being the following.
  - a. First, it would have effectively denied the mandate of the Mission and the authority of the Council;
  - b. Second, it would not have guaranteed access to Beit Hanoun, as the cooperation of Israeli authorities would still be required to enter Gaza; and
  - c. Third, it would have denied access to Secretariat staff, whose crucial assistance to the Mission was mandated by the Council in its resolution.
  
7. It was - and remains - a matter of grave concern to the HLFFM that a duly-mandated Mission of this Council would be prevented from addressing a critical human rights situation due to the non-cooperation of a concerned Government in respect of issuing visas. The Mission members expressed this concern in the clearest possible terms during a press conference held in Geneva on 11 December 2006.
  
8. On 22 March 2007, Professor Chinkin made a statement to the Council at its Fourth Session reporting on the progress of the HLFFM in implementing the resolution. That statement which covers the developments outlined above is annexed to this report (Annex 3).

### **Second attempt**

9. Following the statement of Professor Chinkin to the Council on 22 March 2007, the Council adopted by consensus Resolution 4/2 on 27 March 2007. In that resolution the Council, inter alia, noted with regret that Israel, the occupying Power, has hindered the dispatching of the urgent fact-finding mission, and called for the implementation of resolution S-3/1, including the dispatching of the urgent fact-finding mission. The HLFFM notes that Resolution 4/2 was adopted by consensus in the Council.
  
10. On 4 May Archbishop Tutu wrote to the Permanent Representative of Israel indicating that the HLFFM would be able to travel to Beit Hanoun from 10 to

14 June 2007, and informing him that the Mission would need to know whether the Government of Israel would facilitate the Mission's travel to Beit Hanoun via Israel at the very latest by Friday 25 May 2007. The Archbishop also asked whether or not the inquiry into the incident at Beit Hanoun announced by the IDF Chief of Staff had completed its work, and if so whether a copy of its report could be provided to the Mission. He reiterated his desire that the Mission be able to visit Beit Hanoun, as well as to visit Israel and meet with Israeli officials and other organizations. In a letter dated 1 June 2007, the Permanent Representative of Israel replied to Archbishop Tutu in terms which implied that the Government of Israel would not extend the necessary cooperation to the HLFFM. No response to the request for a copy of the IDF report was received.

11. The Mission to Beit Hanoun was again cancelled. Other options for pursuing the mandate were canvassed, taking into account the considerations outlined in paragraphs 5 and 6 above, which had not significantly changed in the intervening six months. A further important factor was the severe deterioration in the security situation in Gaza in the first part of 2007.

### **Conclusions and recommendations**

12. The members of the HLFFM reiterate in the strongest terms their concern that a duly-mandated Mission of this Council has been and is being prevented from addressing a critical human rights situation due to the non-cooperation of a concerned Government. The Government of Israel has based its refusal to cooperate on claims of bias against Israel in resolutions emanating from the Council. The HLFFM is in no position to evaluate these claims from either expertise or mandate standpoints. The Mission has, from the outset and in the clearest terms, indicated its desire to meet with and consider the situations and positions of the Israeli Government, non-governmental organizations and individuals within Israel. It is clear however that significant human rights violations resulted in Beit Hanoun from the activities of the IDF on and around 8 November 2006. These events must be investigated by an independent, impartial and transparent process preferably at the national level. The Mission's mandate - focused on the needs of victims and survivors - is one response to these human rights violations.
13. The HLFFM has not been able to fulfill its mandate of traveling to Beit Hanoun. This has largely frustrated its attempts to fulfill two of the three limbs of its substantive mandate, namely to: assess the situation of victims; and to address the needs of survivors. Despite this, the Mission feels it can – and should - provide some conclusions and recommendations based on a large amount of information provided to it by a variety of reliable actors during its preparations for the attempted missions. This is especially so given the complexity of the situation. These conclusions and recommendations are based on the mandate of the HLFFM to make such recommendations, and on a desire of the members of the Mission to contribute to efforts to find peace in this troubled region exactly forty years since the commencement of the occupation.

14. The information available suggests that the Israeli military operations in and around Beit Hanoun in November 2006 resulted in grave human rights violations. The loss of life and injuries to civilians have consequences under human rights law and international humanitarian law. Apart from the broader so-called 'Autumn Rains' operation of the IDF, the shelling of Beit Hanoun at around 5.35am on 8 November 2006 resulted in the deaths of nineteen people (including seven children), injury to 51 others and destruction of housing. The damage to physical infrastructure from the shelling compounded the worsening situation in Beit Hanoun after a week of Israeli military operations. According to United Nations sources, at the time of the shelling most areas of the town were already without electricity and water, there had been extensive infrastructure damage, primary health care services had ceased to exist, and eighteen homes had been demolished, with a further 150 damaged. In addition to violations of the right to life, adequate housing and health, credible reports link Israeli action to violations of human rights relating to, inter alia, freedom of movement, food and education.
15. The HLFFM is fully cognizant of the fact that the bombing of Beit Hanoun occurred in a broader context of conflict, human rights violations and political impasse. The Mission realizes that time has passed since then and that the incident seems to have been overtaken by subsequent events in Gaza. However the Mission considers the Beit Hanoun incident and its aftermath to be symptomatic of the apparently unending cycle of extreme violence and violations of civil, cultural, economic, political and social rights. As such its relevance continues. The Mission would like to use this opportunity to stress, as others have before it, **that the process towards peace must operate within a framework of international law and be guided by respect for the UN Charter, international human rights law and international humanitarian law.**
16. The bombing of Beit Hanoun resulted in the death and injury of civilians and as such raises the issue of protection of civilians in armed conflict. The HLFFM reiterates the position that **the people of Gaza must be afforded protection in compliance with international law and above all the Fourth Geneva Convention. The IDF must place at the centre of their decision-making and activities in the occupied Palestinian territories the consequences of the use of force on civilians. This includes the use of artillery in densely populated areas such as Gaza.**
17. The Israeli Government claimed that the bombing of Beit Hanoun had occurred as a result of a 'technical failure by the Israeli military' relating to aiming devices or radar, and expressed its regret for the loss of civilian life. **The HLFFM recommends that Israel indicate publicly and no later than the Sixth Session of the Council the steps it has taken to ensure that an incident such as that at Beit Hanoun does not occur again.**
18. The issues of accountability and impunity lie at the heart of incidents such as the bombing of Beit Hanoun. **Regardless of whether the casualties at Beit Hanoun were caused by a mistake, recklessness, criminal negligence or were wilful, those responsible must be held accountable.**

19. The lack of accountability for those firing Qassam rockets indiscriminately on civilian areas in Israel, as well as a lack of accountability for civilian deaths caused by Israeli military activities in Gaza have resulted in a culture of impunity on both sides. As in many other parts of the world, this culture of impunity begets further human rights violations. **The HLFFM calls on the Israeli and Palestinian authorities to ensure accountability for the commission of crimes, human right violations and violations of international humanitarian law. All incidents must be investigated in a prompt, transparent and independent manner, alleged perpetrators be prosecuted and those convicted be punished, and that appropriate avenues for adequate redress are offered to the victims.** First steps would be an independent, impartial and public investigation into the bombing of Beit Hanoun and reparations for the loss of life and livelihood, injury, and damage to property. Similarly a mechanism must be established to bring to account those responsible for the launching of rockets towards Israeli towns.
20. The aftermath of the bombing of Beit Hanoun raised the issue of the right to access to emergency health care for injuries sustained by victims. The HLFFM notes reports of the contemporary situation of health care in Gaza as being dire. Assaults such as those in Beit Hanoun place increased stress on an already overstretched health system with negative consequences for the enjoyment of the right to health. **The HLFFM would like to draw attention to the rights of victims to ongoing medical treatment, including access to counseling services.**
21. The HLFFM had hoped to be able to assess the situation of women victims and the needs of women survivors as the members of the Mission are aware of the particular violations and other consequences of conflict situations that occur to women because they are women. **The HLFFM recommends that all those responsible for guaranteeing human rights in Gaza and redressing violations take special account of the position of women victims and survivors.**
22. The HLFFM is deeply concerned about addressing the seemingly intractable and unending cycle of human rights violations which impact the everyday lives of tens of thousands of Palestinian and Israeli civilians. **To this end, the HLFFM recommends that a mechanism be established which, while learning from the experience of the many previous initiatives, seeks to build confidence and trust through focusing on the human rights of all.** The broad contours of a such a mechanism could be that:
- a. It provides independent monitoring and assessment of the human rights situation of civilians in conflict in the occupied territory of Gaza and neighboring Israel.
  - b. The monitoring and assessment would be reported publicly with a view to promoting accountability and - ultimately - greater compliance with international human rights and humanitarian law.
  - c. It be based on a principle of joint monitoring and assessment. To this end, a Commission of two individuals of high standing could be

formed, one representing by proxy Palestine and one representing by proxy Israel.

- d. It build on (and fill the gaps in) existing monitoring of human rights violations.
  - e. It be guaranteed access to the occupied territory and to Israel.
23. The members of the Mission would like to conclude this report with some observations on the broader situation in Israel and Palestine. As human beings we belong together. We will not find safety nor security in isolation or exclusion. Our individual security and freedom are inextricably linked to our respect for each other. Our experience has shown that security does not come from the barrel of a gun. It comes when we recognize and respect the human rights of all.
24. The members of the HLFFM would like to express their gratitude to those organizations and individuals who provided information and support to the Mission. They also express their deep appreciation for the support received from the Mission's secretariat and the Office of the High Commissioner for Human Rights. Finally, the members express their deep admiration for those working under difficult conditions with civilians in conflict.

## Annex 1

### Meetings of the HLFFM in Geneva, December 2006

- Permanent Representative of Israel
- Permanent Representative of Egypt
- Permanent Observer of Palestine
- High Commissioner for Human Rights
- President of the Human Rights Council
- World Health Organisation
- UNCTAD
- UNWRA
- International Committee of the Red Cross
- OCHA
- Office of the UN High Commissioner for Human Rights,
- UN Department of Safety and Security
- Human Rights Watch



Annex 2

**High Level Fact Finding Mission to Beit Hanoun  
10 – 15 December 2006  
Tentative schedule of appointments and visits**

Sunday, 10 December				
	AM	07:55	Departure to Tel Aviv	Geneva
	AM	14:30	Arrival in Tel Aviv	Tel Aviv
	AM	16:30	Arrival in Jerusalem	American Colony Hotel, Jerusalem
	PM	17:30	Meeting with Irene Khan, Amnesty International SG	American Colony Hotel, Jerusalem
		20.00	OHCHR Briefing	
Overnight in Jerusalem, American Colony Hotel				
Monday, 11 December				
	AM	08:00	Travel to Gaza	
	AM	09:30	Arrival at Erez Crossing	Gaza Strip
	AM	10:30	Meeting with Palestinian President Mahmoud Abbas	Gaza City
	AM	11:30	Visit to Beit Hanoun including members of families affected by violence and witnesses to the recent military operations	Beit Hanoun
	PM	16:00	Return to Gaza City	Gaza City
	PM	19:30	Dinner with Palestinian Center for Human Rights, Gaza Community Mental Health Programme, Palestinian Committee for Human Rights, Dameer Association	Hotel, Gaza City
Overnight in Gaza, Al-Daira Hotel				
Tuesday, 12 December				
	AM	09:30	Meeting with PRCS	Gaza City

			Representative in Gaza	
	AM			
	AM	11:30	Visit to hospitalized survivors and medical practitioners in Jabaliya and Beit Lahia	Jabaliya and Beit Lahia
	PM	13:00	Follow up visits to Beit Hanoun	Beit Hanoun
	PM	16:00	Departure to Jerusalem	Erez
	PM	18:00	Arrival in Jerusalem	American Colony Hotel
Overnight in Jerusalem, American Colony Hotel				
<b>Wednesday, 13 December</b>				
	AM	09:30	Meeting with WHO Representative	WHO
	AM	11:00	Meeting with ICRC: Head of Mission; Protection Coordinator	Jerusalem
	PM	13:30	Lunch with <i>Btselem</i> Research Director,	Jerusalem, American Colony
	PM	15:30	Meeting at OCHA and Palestinian NGOs	Jerusalem, Old City
	PM	17:30	Visit to hospitalized survivors and medical practitioners in Jerusalem or Tel Aviv	Jerusalem or Tel Aviv
Overnight in Jerusalem, American Colony Hotel				
<b>Thursday, 14 December</b>				
	AM	09:30	Meeting Mr. Alvaro de Soto UN Special Coordinator for the Middle East Peace Process	UNRWA, Jerusalem
	AM	11:00	Meeting with Mr. Kevin Kennedy, UN Humanitarian Coordinator	UN House, Jerusalem
	PM	13:00	Meeting with Karen Koning AbuZayd,	Jerusalem

			UNRWA Commissioner General	
	PM	15:00	Meeting with HRW representative,	Jerusalem
	PM	17:00	Meeting with Amnesty International Representative,	Jerusalem
Overnight in Jerusalem, American Colony Hotel				
<b>Friday, 15 December</b>				
	AM	10:00	Departure to Tel Aviv	Jerusalem
	AM	11:30	Meeting with Physicians for Human Rights	Tel Aviv
	PM	12:30	Departure to airport	Tel Aviv
	PM	15:50	Departure to Geneva	Tel Aviv
	PM	21:10	Arrival to Geneva	Geneva

Human Rights Council High Level Fact Finding  
Mission Established Under Resolution S-3/1

**Statement of  
Professor Christine Chinkin  
member of the High Level Fact Finding Mission,  
to the Fourth Session of  
the United Nations Human Rights Council**

**Geneva, 22 March 2007**

*Mr President*  
*Excellencies*  
*Ladies and gentlemen*

1. Thank you for the opportunity to update the Council on the efforts of the High Level Fact-Finding Mission established under Council Resolution S-3/1 to discharge its mandate. This update is provided on behalf of myself as a member of the Mission, and Archbishop Desmond Tutu, the Leader of the Mission. Archbishop Tutu sends his apologies for his inability to be with us today.
2. The High Level Fact Finding Mission was established by Resolution S-3/1 adopted on 15 November 2006 with a mandate to travel to the town of Beit Hanoun in the occupied Palestinian territory of Gaza following Israeli military operations carried out there around the 8<sup>th</sup> of November 2006. The Mission was mandated to, inter alia:
  - a. assess the situation of victims;
  - b. address the needs of survivors; and
  - c. make recommendations on ways and means to protect Palestinian civilians against any further Israeli assaults.
3. We were asked to report to the Council no later than the middle of December 2006 on progress made towards the fulfillment of its mandate
4. The Council has before it a letter from Archbishop Tutu to the President of the Council dated 11 December 2006. This letter sets out the events surrounding the appointment of the members of the High Level Fact-Finding Mission, its work in Geneva prior to 11 December 2006, and the ultimate failure of Israel to provide the Mission with the necessary official visas for it to carry out its mandate.
5. The members of the Mission would like to reiterate here four points made in that letter.
  - a. First, Archbishop Tutu immediately made it clear to Israeli authorities that he wished the mission to visit both Gaza and Israel in order to meet with both Palestinian and Israeli officials and non-governmental organizations to hear the views of all.
  - b. Second, the Archbishop indicated from the outset to all parties that he was obliged to return to Cape Town by the 16<sup>th</sup> of December at the latest, and that travel to Beit Hanoun would thus have to commence on the Sunday the 10<sup>th</sup> of December at the latest. The deadline for receiving visas was thus communicated as being 4pm on Friday the 8<sup>th</sup> December 2006.
  - c. Third, the Permanent Representative of Israel made it clear to the Mission on a number of occasions that while the position of his Government was not to cooperate with the Mission, the members of the Mission would not be barred from entering Israel. This position

was reiterated in a number of comments to the media by Israeli officials.

- d. Fourth, the mission did not travel to Beit Hanoun as mandated because Israeli authorities failed to provide the necessary official visas.
6. Let me reiterate that the decision of the Mission to abandon attempts to travel to Beit Hanoun for want of visas was not taken lightly. The Mission was led to believe - by official and media statements - that visas would be granted. Indeed despite visas not being issued by 4pm on Friday the 8<sup>th</sup> of December, the Mission continued to wait for a response until the evening of Saturday the 9<sup>th</sup> of December, when airline and other arrangements – including those for the very full schedule of planned interviews in both Israel and Gaza - were finally cancelled.

*Mr President, distinguished delegates*

7. It was - and remains - a matter of grave concern to us that a duly-mandated mission of this Council would be prevented from addressing a critical human rights situation due to the non-cooperation of a concerned Government in respect of issuing visas. We expressed this concern in the clearest possible terms during a press conference held in Geneva on Monday the 11<sup>th</sup> of December.
8. Once it became clear that the Mission would not be permitted to travel to Beit Hanoun via Israel on the 10<sup>th</sup> of December as planned, I and Archbishop Tutu considered the most appropriate means of giving effect to our mandate. In doing so, we took into account a number of factors, including the following.
  - a. The events of early November 2006 in Gaza, and in Beit Hanoun in particular, required an investigation into possible serious human rights violations by Israel. This Council's decision to dispatch the Mission to Beit Hanoun reflected its deep concern at the corroborated reports of the killing and injuring of civilians by Israeli armed forces. The information presented to the Mission during its briefings in Geneva confirmed the gravity and urgency of the situation.
  - b. The mandate of the Mission not only explicitly required that it 'travel to Beit Hanoun' but that it 'assess the situation of victims' and 'address the needs of survivors'. Each of these elements required that the Mission have access to victims, survivors and witnesses in Beit Hanoun and elsewhere.
  - c. The Mission carefully investigated the possibility of assessing the situation of victims and survivors by visiting places outside Israel and Gaza where those individuals may have been removed for medical treatment. Our investigations revealed that of fifty-one individuals injured in the incident at Beit Hanoun, all except six were treated in the occupied territory of Gaza. Of those six who were removed for treatment, three were hospitalized in Israel and three in Egypt. Of

course some of the victims of the attack were not among the dead or injured, for example, family members of those killed. For these individuals, the possibility of them leaving Gaza was extremely limited. It is fair to say, at this point, that the continued military occupation of Gaza itself was the greatest factor frustrating the Mission, preventing as it did victims of the Beit Hanoun incident from leaving the territory, and preventing the Mission from entering Gaza. Thus, to meet with and assess the situation of victims and to address the needs of survivors, the Mission had no choice but to travel to the occupied Palestinian territory of Gaza.

- d. Access to Gaza and to Beit Hanoun might have been possible via Egypt and the Rafah Crossing, thus obviating the need for official visas to enter Israel. The Mission investigated this possibility closely, and raised the issue with the Permanent Representatives of Egypt and Israel in Geneva, with United Nations actors in Gaza and with United Nations security officials. Ultimately the Mission reluctantly accepted that entry via the Rafah Crossing was not feasible for a number of reasons.
  - i. First, the Rafah Crossing was only open to Palestinian trade and not pedestrians. Further, from the 1<sup>st</sup> of June 2006 until the 11<sup>th</sup> of December 2006, the Crossing had only opened twenty-three times, and in the month of November 2006 had only opened on two days.
  - ii. Second, crossing at Rafah required the cooperation of Israeli authorities, which may not have been forthcoming in light of the statements to the Mission by the Permanent Representative of Israel mentioned earlier.
  - iii. Third, at the time, the United Nations Department of Safety and Security did not authorize United Nations missions to make the crossing at Rafah for security reasons.
  - iv. Finally, entering Gaza via Egypt would frustrate the Mission's desire to meet with Israeli officials and organizations.
- e. The Permanent Representative of Israel proposed that myself and Archbishop Tutu enter Israel in our personal capacities rather than as members of a Mission constituted by the Human Rights Council. This proposal was immediately rejected for a number of reasons, principal among them being the following.
  - i. First, it would have effectively denied the mandate of the Mission and the authority of this Council;
  - ii. Second, it would not have guaranteed access to Beit Hanoun, as the cooperation of Israeli authorities would still be required to enter Gaza; and

- iii. Third, it would have denied access to Secretariat staff, whose crucial assistance to the Mission was mandated by the Council in its resolution.
9. Let me say here that the Mission was aware that another fact-finding in relation to the incidents at Beit Hanoun had been established by the General Assembly on the 17<sup>th</sup> of November 2006. Informal consultations were held at the Secretariat level to ensure that the two Missions' visits to Beit Hanoun did not occur on the same days. We understand that the General Assembly Mission was also not provided with the necessary cooperation of the Israel, and consequently did not travel to Beit Hanoun nor has it produced a report.

*Mr President*

10. In light of these factors, the Mission concluded that the failure by Israel to issue the necessary official visas frustrated the very core of our mandate. Without travelling to Beit Hanoun and meeting the victims and survivors, the Mission would not be in a position to independently assess their situation nor to formulate recommendations for protection in the future. The option of interviewing victims in third countries was not feasible for – as I have noted earlier - only six of the victims were hospitalized outside Gaza and only three of those outside Israel.
11. Although a significant amount of information on the Beit Hanoun situation was provided to the Mission in Geneva, the Archbishop and I concluded that a substantive report relying on second-hand information and insights was not envisaged in the clear wording of Resolution S-3/1, which explicitly asked the mission to travel to Beit Hanoun, meet with victims and survivors, undertake assessments and make recommendations on the basis of these.
12. That said, the information provided suggests that the Israeli military operations in and around Beit Hanoun in November 2006 resulted in grave human rights violations. The documented loss of life and injuries to civilians have consequences not only under human rights law but also under international humanitarian law. Apart from the broader so-called 'Autumn Rains' operation of the Israeli Defence Force, the shelling of Beit Hanoun around 5.35am on the 8<sup>th</sup> of November 2006 resulted in the deaths of nineteen people (including seven children) and injury to fifty-one. Sixteen of those killed were members of the same family. Beyond possible violations of the right to life, numerous credible reports link Israeli action to violations of human rights relating to health, food, housing and education. The damage to physical infrastructure from the shelling of Beit Hanoun compounded the worsening situation in the town after a week of Israeli military operations. According to United Nations sources, at the time of the shelling most areas of the town were without electricity and water and there had been extensive infrastructure damage, primary health care services had ceased to exist, and eighteen homes had been demolished, with a further 150 damaged.

*Mr President*



*Distinguished delegates*

13. The seriousness of the allegations relating to Israeli military activity in and around Beit Hanoun last November should not be understated. In order to ascertain what happened and to assess the situation of those affected, the international community - through the Human Rights Council - decided to send an independent fact-finding mission to the town. To date this has not been possible. Despite the passing of time and the consequent possible loss of evidence, the members of the Mission feel strongly that the need remains for an investigation as requested by the Council with a view to formulating recommendations for the protection of the human rights of individuals in the area.
  
14. On behalf of Archbishop Tutu, I would like to express our appreciation to those individuals and organizations who provided us with briefings on the situation in Beit Hanoun, as well as those who had agreed to assist and meet with us in Gaza and in Israel.

Thank you