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Human Rights Council

12th session



Periodic Report on the Implementation of Resolution S-9/2

**Statement of Ms. Navanethem Pillay
United Nations High Commissioner for Human Rights**

Geneva, 29 September 2009

Mr. President,

Distinguished Members of the Human Rights Council,

Excellencies,

Ladies and Gentlemen,

I am pleased to submit my first periodic report as requested by the Human Rights Council in its resolution S-9/1 (para. 11 (b), entitled *The Grave Violations of Human Rights in the Occupied Palestinian Territory, particularly Due to the Recent Israeli Military Attacks against the Occupied Gaza Strip*). In accordance with this resolution, my next periodic report will be presented to the 13th session of the Human Rights Council.

The report before you today focuses on some of OHCHR's key concerns and direct observations regarding the occupied Palestinian territory (OPT). It also covers the period from the commencement of the Israeli military operations in Gaza codenamed "Cast Lead" through 10 April 2009.

Allow me to begin this presentation by discussing in brief the situation in Gaza. On this subject, my report complements other reports that were mandated by resolution S-9/1. I refer to the documents produced by both the independent fact-finding mission headed by Justice Richard Goldstone, and those by ten special procedures mandate-holders. Several other investigations by both intergovernmental and non-governmental entities are relevant to your discussion. Taken together, these reports present a comprehensive picture of the situation in Gaza.

My own report notes that significant prima facie evidence indicated the commission of serious violations of international humanitarian law, as well as gross human rights violations, by both Israel and Hamas during the military operations that were carried out from 27 December 2008 to 18 January 2009.

Such situation was exacerbated by the blockade that the population of Gaza endured in the months prior to Operation Cast Lead. The blockade continues to this day, and is now in its third year.

Since my report was drafted, the conditions on the ground have deteriorated.

In particular, the Gaza population's freedom of movement is denied. A wall runs along all land borders with Israel and Egypt. At sea, Israeli gunboats prevent sailing beyond three nautical miles from the coastline. With very few exceptions, Gaza's 1.5 million inhabitants are trapped. They cannot exit the 45 km-long Strip. The blockade thus amounts to collective punishment which is prohibited under Article 33 of the Fourth Geneva Convention.

In addition to the curtailment of Gazans' freedom of movement, heavy import restrictions and near total prohibition of exports have severely impaired the realization of a wide range of economic, social and cultural rights, as well as civil and political rights, of the Gaza population. More specifically, I refer to the unacceptable curtailment of Gazans' right to work, their right of access to water, food, adequate housing and education, and their entitlement to the highest attainable standard of physical and mental health. These conditions impair the life and dignity of the people of Gaza.

Funds to remedy the situation are available. However, the blockade stops the disbursement of the nearly five billion dollars pledged by donors at Sharm el Sheikh in March 2009 for recovery and reconstruction efforts in Gaza.

I reiterate my call for an end to the blockade and its effect of collective punishment. Such hardship for the civilian population cannot serve the interest of peace and security in the region.

Further, I recommend in my report that all allegations of breaches of international humanitarian law and human rights violations during the Gaza military operations and their aftermath - whether through attacks on civilians and civilian objects in Gaza or indiscriminate rocket attacks into Israel - must be thoroughly investigated by credible, independent and transparent accountability mechanisms, respectful of international standards of due process. Equally crucial is upholding the right of victims to reparation.

The recommendations of Justice Goldstone's fact-finding mission should be followed up by the Council in order to fulfill its responsibility to promote universal respect for the protection of all human rights and fundamental freedoms for all. The interest of all victims and respect for international law must be the central focus of the Council's action. This body's impartiality and an even-handed approach on the part of the international community as a whole, are indispensable to help prevent future human rights violations and to establish solid bases for peace and security.

Some of the recommendations of the fact-finding mission are addressed to my Office or require OHCHR support. I stand ready to discharge these tasks, if so directed.

I also note the report on *The Operation in Gaza 27 December 2008 – 18 January 2009: Factual and Legal Aspects* that the Government of Israel issued last July. The report made known that the Israel Defense Forces were conducting at that time “comprehensive field and criminal investigations into allegations regarding the conduct of its forces during the Operation.”

I urge the Government of Israel to ensure that any investigation into this matter be conducted in a credible and independent manner and in conformity with all relevant international standards.

Excellencies,

Let me now turn to the situation in the West Bank and East Jerusalem which my report also documents. The increasingly pressing international calls for a stop to settlements have thus far not been heeded. Violent acts by settlers against Palestinians continue, coupled with a near total impunity for such acts.

As pointed out in my report, the existence of the settlements represents severe obstacles for freedom of movement in East Jerusalem and the West Bank. These include checkpoints, road blocks and segregated roads, the vast majority of which are located far away from the Green Line. And so is the Wall which extends far into the West Bank. In turn, these obstacles undermine the enjoyment of other human rights, such as the right to

education, access to health and the freedom to worship. The settlement expansion policy also spawns the rising number of forced evictions and demolitions of homes in East Jerusalem and the West Bank. In this sense, settlements are not only illegal under international humanitarian law, but also generate violations of international human rights law.

Ladies and Gentlemen,

My report documents a series of human rights violations from the end of December 2008 until April 2009, including arbitrary detentions; torture and ill-treatment, extrajudicial executions, as well as restrictions on freedom of expression.

Since April, the dire situation of thousands of detainees and prisoners has not improved. Israel currently holds approximately 8,000 Palestinians in detention under conditions that contravene international human rights and humanitarian law. In Gaza, the de facto administration holds an estimated one hundred political detainees in unknown locations which are off-limits to both the families of the detainees and to their legal counsel. The Israeli soldier Gilad Shalit has been held incommunicado in an undisclosed location for more than three years similarly without access even to the International Committee of the Red Cross. Allegations of torture and degrading treatment of detainees held in centers under the control of the Palestinian Authority, Hamas and Israel need to be investigated.

Regarding the situation of those captured, the widespread recourse that all duty-bearers make to military justice systems which do not meet international standards of due

process, remains of grave concern. Due process and the rights of the accused should be upheld at all times and in appropriate venues.

Mr. President,

I wish to reiterate that I lend my full support to Justice Goldstone's report and its recommendations. The prevailing impunity for human rights violations in the Middle East conflict must end.

Such impunity encourages and engenders the perpetuation of abuse. Bringing perpetrators to account is not only necessary to ensure justice and protection to the affected populations, but also to enhance prospects of peace in the region. All parties to the conflict, as well as the international community, should extend full support and cooperation to accountability efforts.

In seeking a durable political solution to the decades-long conflict, the international community is urged to anchor its efforts in international law, in particular international human rights and humanitarian law, including the advisory opinion of the International Court of Justice.

It is clear that there can be no lasting peace without respect for human rights and without accountability for human rights violations and for breaches of international humanitarian law.

I wish you a fruitful debate.