
HUMAN RIGHTS COUNCIL TAKES UP HUMAN RIGHTS SITUATION IN PALESTINE AND OTHER OCCUPIED ARAB TERRITORIES

27 September 2010

The Human Rights Council this morning took up its agenda item on the human rights situation in Palestine and other occupied Arab territories, under which it considered the report of the Committee of Experts established in the context of follow-up to the report of the Independent International Fact-Finding Mission on the Gaza Conflict, and held an interactive dialogue on that report. It also heard a presentation of the reports of the Secretary-General and of the Office of the High Commissioner for Human Rights on the progress made in the implementation of the recommendations of the Fact-Finding Mission on the Gaza conflict by all concerned parties, and on the implementation of the Council resolution mandating the above report.

Navi Pillay, United Nations High Commissioner for Human Rights, introducing the reports of the Secretary-General and her Office, said the first report reviewed every recommendation of the Fact-Finding Mission, following the order in the report, and provided comprehensive information on the status of implementation of the recommendations. Information in the report was based on monitoring activities carried out by the Office's presence in the Occupied Palestinian Territory and information gathered from States, organizations and other entities to which the Mission addressed its recommendations. The second report followed up on the report of the Fact-Finding Mission, and reviewed the key operative paragraphs of Human Rights Council resolution 13/9, indicated all actions taken towards their implementation, and provided information regarding the results of that action.

Christian Tomuschat, Member of the Committee of Experts established in the context of follow-up to the report of the Independent International Fact-Finding Mission on the Gaza Conflict, presenting the report of the Committee of Experts, said the Committee had attempted to collect all materials susceptible of shedding light on the investigations carried out by the Israeli authorities and the Palestinian side in response to the allegations of serious violations of human rights and international humanitarian law contained in the report of the Fact-Finding Mission headed by Judge Goldstone. First of all, the Committee had turned to the responsible authorities on both sides to obtain first-hand information on the relevant proceedings. As far as Israel was concerned, the requests of the Committee went unheeded. The Palestinian Authority had been prepared, from the very outset, to cooperate with the Committee. As far as the Palestinian Authority was concerned, the Committee appreciated the way in which the investigation into the violations accounted in the Fact-Finding Mission's report had been conducted by an independent commission.

Speaking as a concerned country, Israel said from the very start Israel had argued that it had the capability and the willingness to carry out investigations into allegations into violations of the law of armed conflict and to share its findings with the public in Israel and with the international community. Since the conclusion of the Gaza Operation 20 months earlier, the military had carried out over 150 investigations, some of which had led to criminal investigations, indictments and convictions. The process in this hall had continually been one-sided and obsessively biased, while the Council had looked to act to delegitimize Israel, its leadership and its rights to act in self-defence. Members of the Council should reject any further action on this matter by the Council.

Also speaking as a concerned country, Palestine said the report was independent, transparent and objective, in conformity with international standards, and Palestine condemned the continued non-cooperation of Israel with the Fact-Finding Mission and its obstruction of its entry to the Occupied Territories and the non-implementation of resolutions of the Human Rights Council and the General Assembly. There were violations of international humanitarian law and international human rights law in the Occupied Palestinian Territory, including East Jerusalem. Palestine would be submitting a resolution requesting an extension of the mandate of the Fact-Finding Mission in order to continue its investigations.

During the interactive debate on the report of the Committee of Experts, speakers raised, among other points, that justice delayed was justice denied, and both sides and all concerned parties, including United Nations bodies, should fully implement all the recommendations of the Goldstone report, and the calls in this regard by the General Assembly and the Council. The report gave a clear picture of Israel that did not abide by international law or resolutions, and it also had a bad record in international humanitarian law as an occupying power, as well as refusing to cooperate with earlier investigations. Israel must undertake investigations that were independent, credible and in conformity with international standards into serious violations of international humanitarian law and international human rights law.

More steps should be taken by all parties in the fight against impunity and the need to ensure accountability, speakers said, and all concerned parties, including non-State actors, had duties under international law and had the responsibility to undertake credible investigations into allegations. Israel should improve the humanitarian situation so that the Palestinian people could restore their normal and dignified lives. Several speakers also expressed a wish for the Committee of Experts to have its mandate renewed so as to monitor and evaluate investigations, as called for in the corresponding resolution adopted by the General Assembly and the Human Rights Council. This was the least the Council could do to support its credibility, and leave behind the double standards that caused it to defend some and ignore others, just because the latter were from a long-lost story.

In its resolution 13/9, in the context of the follow-up to the report of the Independent International Fact-Finding Mission on the Gaza conflict, the Human Rights Council decided to establish a Committee of Independent Experts to monitor investigations concerning the Gaza conflict, and requested it to submit a report to this session of the Human Rights Council. The resolution also requested the Secretary-General to present a comprehensive report on the progress made in the implementation of the recommendations of the Fact-Finding Mission on the Gaza conflict by all concerned parties, including United Nations bodies. The Council also requested the High Commissioner to present a report on the implementation of the resolution.

Speaking in the interactive debate on the report of the Committee of Experts were Syria on behalf of the Arab Group, Pakistan on behalf of the Organization of the Islamic Conference, Egypt on behalf of the Non-Aligned Movement, European Union, Cuba, Yemen, China, Lebanon, League of Arab States, Iran, Egypt, Syria, Tunisia, Malaysia, Turkey, Iraq, Switzerland, Algeria, Indonesia, Qatar, Senegal, Libya, United States, Brazil, Bangladesh, Bahrain, Sudan, United Arab Emirates, Morocco, and Saudi Arabia.

Also speaking were Federation Internationale des Liges des Droits de l'Homme, UN Watch, Palestinian Centre for Human Rights, BADIL Resource Centre for Palestinian Residency and Refugee Rights, and Amnesty International.

At the beginning of the meeting, the Council held a minute of silence for Dr. Arjun Sengupta, Chairperson-Rapporteur of the Working Group on the right to development, who passed away over the weekend.

The next meeting of the Council will be held at 3 p.m. this afternoon, when it will hold its general debate on the human rights situation in Palestine and the other occupied Arab territories, after which it will consider the report of the Fact-Finding Mission on the flotilla incident.

Documents

The Report of the Committee of Independent Experts in international humanitarian and human rights laws to monitor and assess any domestic, legal or other proceedings undertaken by both the government of Israel and the Palestinian side, in light of General Assembly resolution 64/254 including the independence, effectiveness, genuineness of these investigations and their conformity with international standards, ([A/HRC/15/50](#)), details the Committee's review of numerous reports, including the official reports submitted to the United Nations Secretary-General by the Government of Israel and the Palestinian side pursuant to General Assembly resolution 64/254, as well as other documents, reports and articles by non-governmental organizations and military justice experts. It also outlines the two field missions the Committee undertook to Amman and to the Gaza Strip to interview victims and witnesses, Government officials and human rights organizations; the Committee was not granted access to Israel and the West Bank. The Committee sought to assess investigations for compliance with international standards of independence, impartiality, effectiveness, thoroughness and promptness.

The Report of the Secretary-General on the progress made in the implementation of the fact finding mission by all concerned parties, including United Nations bodies, in accordance with paragraph 3 section B of resolution S-12/1, ([A/HRC/15/51](#)) focuses on the status of implementation of the recommendations contained in the report of the United Nations Fact-Finding Mission on the Gaza Conflict (A/HRC/12/48). It reviews all recommendations made by the Mission, in the order in which they appear in the Mission report.

The Report of the High Commissioner for Human Rights on the follow-up to the report of the United Nations Independent International Fact Finding Mission in the Gaza Conflict, ([A/HRC/15/52](#)), provides information on the status of implementation of Human Rights Council resolution 13/9 on follow-up to the report of the United Nations Independent International Fact-Finding Mission on the Gaza Conflict. It reviews the key operative paragraphs of resolution 13/9 and actions taken toward their implementation.

Opening Statements

NAVI PILLAY, United Nations High Commissioner for Human Rights, introducing the report of the Secretary-General on the progress made in the implementation of the recommendations of the Fact-Finding Mission on the Gaza conflict by all concerned parties, including United Nations bodies, and the Office of the High Commissioner for Human Rights report on the implementation of the Council resolution 13/9, said the first report reviewed every recommendation of the Fact-Finding Mission, following the order in the report, and provided comprehensive information on the status of implementation of the recommendations. Information in the report was based on monitoring activities carried out by the Office's presence in the Occupied Palestinian Territory and information gathered from States, organizations and other entities to which the Mission addressed its recommendations. The second report followed up on the report of the Fact-Finding Mission, and reviewed the key operative paragraphs of Human Rights Council resolution 13/9, indicated all actions taken towards their implementation, and provided information regarding the results of that action. She trusted that the Human Rights Council would find the reports informative, and wished the Council a productive discussion.

CHRISTIAN TOMUSCHAT, Member of the Committee of Experts, said the Committee had attempted to collect all materials susceptible of shedding light on the investigations carried out by the Israeli authorities and the Palestinian side in response to the allegations of serious violations of human rights and international humanitarian law contained in the report of the Fact-Finding Mission headed by Judge Goldstone. First of all, the Committee had turned to the responsible authorities on both sides to obtain first-hand information on the relevant proceedings. As far as Israel was concerned, the requests of the Committee went unheeded. The Committee was thus unable to access Israel and the Occupied Palestinian Territories of the West Bank. The Palestinian Authority had been prepared, from the very outset, to cooperate with the Committee. It had provided it with the report of the Independent Investigation Commission appointed to look into the allegations directed against the Palestinian authorities in the West Bank and in the Gaza Strip. The Committee had also received two reports from the de facto authorities in the Gaza Strip.

The Committee noted that Israel had taken steps to address some of the many complaints raised in relation to the Gaza conflict. Noteworthy were the new procedures for the protection of civilians in urban warfare, the new order regulating the destruction of private property for military purposes, and the establishment of a doctrine and orders on the use of munitions containing white phosphorous, among other things. However, the Committee remained concerned that not all allegations of serious violations of international humanitarian law may have been investigated. Moreover, the Committee was not in a position to ascertain whether the investigations undertaken fully comported with recognised international standards. The proceedings conducted in Israel were marred by a fundamental lack of transparency and the Palestinians felt that they had not been included in a joint effort to establish the truth. The Committee was further concerned that Israel had apparently abstained from conducting investigations into decisions made at the highest levels about the Gaza operations. As far as the Palestinian Authority was concerned, the Committee appreciated the way in which the investigation into the violations accounted in the Fact-Finding Mission's report had been conducted by an independent commission. However, actual steps would have to be taken with a view to implementing the results of the investigation. The Committee viewed its report as a call to both sides strictly to abide by the rule of law. Under no circumstance could the norms of international humanitarian law and human rights law be departed from.

Statements by Concerned Countries

AHARON LESHNO YAAR, Permanent Representative of Israel to the United Nations Office at Geneva, speaking as a concerned country, said that from the very start Israel had argued that it had the capability and the willingness to carry out investigations into allegations into violations of the law of armed conflict and to share its findings with the public in Israel and with the international community. Since the conclusion of the Gaza Operation 20 months earlier, the military had carried out over 150 investigations, some of which had led to criminal investigations, indictments and convictions. The process in this hall had continually been one-sided and obsessively biased, Mr. Yaar said, while the Council had looked to act to delegitimize Israel, its leadership and its rights to act in self-defense. Despite the fact that Hamas had committed grave violations for years and continued to act with impunity today, there was no groundswell in this hall for action or investigation. It was instructive that despite all those tendencies, the report that was presented today recognized Israel's ability and willingness to carry out credible and independent investigations and accepted Israel's argument that its military was capable of investigating itself in a manner that was consistent with international practice and international law.

Israel understood that while it believed strongly in the investigation system and its capabilities, there were questions, both domestically and internationally. Therefore, the Turkel Commission, and independent commission led by a former Supreme Court Justice and joined by two world renowned international observers was tasked, among other things to examine the question of whether the mechanism for examining and investigating complaints and claims raised in relation to violations of the laws of armed conflict conformed with the obligations of the State of Israel under the rules of international law. The findings of the Commission, due in the coming months, would address this issue to allow Israel's legal system to continue to improve. Given those processes and Israel's significant efforts, it was time to bring the activities from this hall to a conclusion. Mr. Yaar called on members of the Council to reject any further action on this matter by the Council. It was time, after so many months, so many committees, so many reports, to return the efforts where they belonged.

IBRAHIM KHRAISHI, ([Palestine](#)), speaking as a concerned country, said the report of the Committee of Experts was welcomed, and was independent, transparent and objective, in conformity with international standards, and Palestine condemned the continued non-cooperation of Israel with the Fact-Finding Mission and its obstruction of its entry to the Occupied Territories and the non-implementation of resolutions of the Human Rights Council and the General Assembly. President Mahmoud Abbas had issued a Presidential Decree on the basis of which an independent national committee had been established to follow the recommendations of the Goldstone Report, and had accomplished its work professionally, presenting its report to the Secretary-General of the United Nations and the Committee of Experts. The report was said to be not only informed but also in conformity with national standards. The idea behind the establishment of the committee was to live up to the commitments Palestine had undertaken. Palestine was the country under occupation, and was facing on a daily basis Israeli violations. There were violations of international humanitarian law and international human rights law in the Occupied Palestinian Territory, including East Jerusalem.

The Palestinian delegation, after considering the reports of the Secretary-General and the Office of the High Commissioner for Human Rights, wished to ask both to continue to follow-up the recommendations contained in the report of the Fact-Finding Mission on the Gaza conflict. Since the report of the Fact-Finding Mission had resolved that the investigations carried out by Israel were incomplete and not compatible with international standards, Israel should establish a national, independent committee in order to carry out further investigations of the violations that had occurred during the Gaza conflict, investigations that must be credible and objective. It was inconceivable that one of the people who had carried out planning as well as implementation of the invasion of Gaza had been involved in the drafting of the Israeli report. Palestine would be submitting a resolution requesting an

extension of the mandate of the Fact-Finding Mission in order to continue its investigations. The Palestinian National Committee should carry out its work and do all that was necessary to continue to investigate violations of human rights in accordance with international humanitarian law.

Interactive Debate with Committee of Experts

FAYSAL KHABBAS HAMOUI ([Syria](#)), speaking on behalf of the [Arab Group](#), said the Arab Group thanked the members of the Committee of Experts for their professional and objective report. The Arab Group appreciated the great efforts made by Palestine in setting up its independent committee as well as its constructive cooperation, enabling it to discharge its mandate in accordance with the Council's resolution. However, the Arab Group vigorously condemned Israel's lack of cooperation with the Committee and called upon Israel to proceed with independent and honest investigations in line with international standards. The Arab Group repeated its confidence in the investigations carried out by the Palestinian committee and called for continued investigations to cover human rights violations in the Gaza Strip. The Arab Group expressed its wish for the United Nations Committee of Experts to have its mandate renewed so as to monitor and evaluate investigations, as called for in the corresponding resolution adopted by the General Assembly and the Human Rights Council.

MARIAM AFTAB ([Pakistan](#)), speaking on behalf of the [Organization of the Islamic Conference](#), welcomed the report of the Committee of Independent Experts and the cooperation by the Palestinian National Authority and their report presented to the United Nations Secretary-General. The Organization of the Islamic Conference deeply regretted the non-cooperation by Israel with previous independent high-level and fact-finding missions and called upon Israel, the occupying power, to fulfil its legal obligations and commitments towards the Palestinian people. Israel must undertake investigations that were independent, credible and in conformity with international standards into serious violations of international humanitarian law and international human rights law. The Organization of the Islamic Conference renewed its appreciation of the work of the Palestinian independent investigation commission established to follow up on the implementation of recommendations of the Independent International Fact-finding Mission on the Gaza Conflict.

HISHAM BADR ([Egypt](#)), speaking on behalf of the [Non-Aligned Movement](#), said in its resolution S-9/1, the Council strongly condemned the Israeli military operation carried out in the Occupied Palestinian Territory, particularly the Occupied Gaza Strip, which had resulted in massive violations of the human rights of the Palestinian people and the systematic destruction of the Palestinian infrastructure. Pursuant to that resolution, the Independent International Fact-Finding Mission on the Gaza Conflict presented its landmark report in October 2009, a report which was ultimately welcomed by the Council which endorsed its recommendations and called upon all concerned parties, including United Nations bodies, to ensure their implementation in accordance with their respective mandates. The General Assembly also pronounced itself on the matter in its resolutions 64/10 and 64/254, endorsing the report of the Human Rights Council and called upon Israel and the Palestinian side to undertake investigations that were independent, credible, and in conformity with international standards into the serious violations of international humanitarian and human rights law reported by the Fact-Finding Mission. The Council should continue to be seized with the matter until justice had been served. Both sides and all concerned parties, including United Nations bodies, should fully implement all the recommendations of the Goldstone report, and the calls in this regard by the General Assembly and the Council. Justice delayed was justice denied. The credibility of the Council and of the international human rights system was on the line.

JOELLE HIVONNET ([European Union](#)) said the report of the Committee of Experts provided for an objective and thorough assessment of any domestic, legal or other proceedings undertaken by both the Government of Israel and the Palestinian side connected to the military operations. The European Union commended the efforts taken by Israel and the Palestinian Authority so far to investigate and remedy violations. At the same time, it acknowledged that more steps should be taken by all parties in the fight against impunity and the need to ensure accountability. The European Union echoed concerns regarding the functioning of the military justice system. It encouraged Israel to take these concerns into account and engage in a dialogue with United Nations bodies and other agencies. Also, perpetrators should be prosecuted and effective remedy to victims be provided, and the European Union encouraged the Palestinian Authority to take steps in that regard without delay. The European Union shared the strong concerns raised by the Committee relating to the efforts undertaken by the de facto authorities in Gaza. All concerned parties including non-State actors had duties under international law and had the responsibility to undertake credible investigations into allegations. The European Union was interested to hear the Experts' views as to how the Council could contribute to ensuring that accountability was upheld by non-State actors.

JUAN QUINTANILLA ([Cuba](#)) said that the report presented by the Committee of Experts confirmed that the Palestinian National Authority had established an independent commission to investigate complaints and incidents committed on the Palestinian territory. This commission was not only independent in its statute but in practice too and the investigation complied with international standards. Those measures must be recognised especially when taking into account the situation of people living in Palestinian territories and the constant acts of aggression by Israel. Cuba condemned the lack of cooperation by Israel with the Committee of Experts and said that as a result there was not much information available about investigative mechanisms in Israel. Other deficiencies in the Israeli's investigative system had been mentioned in the report, which meant that the system was not in accordance with international norms and standards. Israel had also failed to investigate charges related to the implication of high level officials in Operation Cast Lead. Cuba expected to hear recommendations from the experts on this topic and wanted to hear more about the measures to be undertaken by Israel to ensure that investigations conformed to international norms and standards.

IBRAHIM AL-ADOFI ([Yemen](#)) said the report gave a clear picture of Israel that did not abide by international law or resolutions, and it also had a bad record in international humanitarian law as an occupying power, as well as refusing to cooperate with earlier investigations. Israel had not cooperated with the Committee, and had not given it access to Palestine in order to investigate. Israel continued to avoid dealing with international bodies while Palestinians cooperated with international mechanisms, although they were the victim, and it was a shame to put on a par the abused with the occupier. The Committee of Experts should suggest measures that could be taken to make Israel cooperate with international will and bring forward the humanitarian principles that the Council championed. It would be very dangerous if Israel continued its actions, as that would be a danger to international peace and security.

HU MIAO ([China](#)) said China appreciated the three reports submitted by the Secretary-General, the High Commissioner for Human Rights and the Committee of Experts. China noted with appreciation that the Committee of Experts had made tremendous efforts and had undertaken much work to monitor and assess the internal investigations carried out by Israel and Palestine. It was well known that the Israeli blockade had impaired all the rights of the Palestinian people. China therefore called upon Israel to improve the humanitarian situation so that the Palestinian people could restore their normal and dignified lives. China would continue to follow the situation and welcomed the direct negotiations by the two sides, hoping this process would shortly achieve positive results. China had always participated in the international community's efforts to establish peace in the Middle East and it would continue promoting the peace process.

RANA MOKADDEM ([Lebanon](#)) said that in order to investigate violations of international humanitarian law and international human rights law during the aggression of Israel on Gaza, an independent commission had been established. Lebanon requested Israel to cooperate with the Commission of Experts. Lebanon asked about the measures to ensure compliance with the recommendations of the Commission, which had concluded that there was a need for impartiality in the investigation of Gaza. The report of the Independent Commission had confirmed the principle of prosecution of violations, and this was a basis for peace and security in the region, Lebanon said. The international community, the Human Rights Council and relevant United Nations bodies had a prime responsibility to ensure the implementation of those recommendations. Israel must lift the blockade of Gaza and respect the right of people to life and security.

SAAD AL FARARGI ([League of Arab States](#)) said since the last session of the Council, no positive changes had been seen in Palestine and other occupied Arab territories - things had become worse, lands had been usurped, and civilians had been killed. This was documented by Special Rapporteurs and the Goldstone report. The Israeli occupation continued. All basic rights were violated, including the right to self-determination. The situation of the Occupied Golan and Syrian lands also continued. The Arab Peace Initiative was still alive, alive with the spirit of just, comprehensive and lasting peace. It was a balanced solution, but Israel, in its arrogance, continued to reject it, and continued with its settlements and giving excuses for its inexcusable occupation, which would lead to destroying all efforts towards peace. Israel claimed to be a democracy. It was important to uphold the principle of accountability, not impunity, in dealing with Israel, in order to make it respect international law.

SEYED MOHAMMAD REZA SAJJADI ([Iran](#)) said Iran deeply regretted the occupying power's non-cooperation with previous independent high-level and fact-finding missions. Iran deplored that independent and credible investigations in conformity with international standards had not been conducted into the serious violations of international human rights and international humanitarian law. Iran also maintained that investigations into such violations should meet the universal criteria of independence, impartiality, thoroughness, effectiveness and promptness. An official inquiry must be conducted by a truly independent and international body given the inherent conflict of interest in the military's examining of its own role in designing and executing Operation Cast Lead. Iran reiterated that the international community should take serious action to end promptly the effective control and occupation of Gaza and stop brutal crimes by the occupiers in that part of the Palestinian territories.

AHMED IHAB GAMALELDIN ([Egypt](#)) said after a year and half had passed since the attack on Gaza, Egypt was looking forward to the implementation of the recommendations from the Goldstone report and hoped that the international community would not allow those dramatic human and material losses to be repeated. Egypt welcomed the professional way in which the Committee had done its work and was gravely concerned about deficiencies in Israeli's investigative mechanism revealed in the Commission's report. Egypt further regretted that Israel had not implemented recommendations from the Goldstone report and called on Israel to promptly implement those recommendations and the relevant Security Council's resolutions. Egypt welcomed the establishment of the Palestinian committee of investigation and the fact that it was independent not only in its statute, but in practice too. The report stated that there were difficulties experienced by the Palestinian committee of investigation, particularly in access to territories. It was important for this Council to follow up on the recommendations of the Goldstone report to ensure that victims of violations received remedies, Egypt said.

FAYSAL KHABBAS HAMOUI ([Syria](#)) said Israel had attacked the Gaza Strip in 2008, after it had been under a blockade for a long time, and had brutally killed over 1,400 Palestinians, mostly women and children, and had refused to cooperate with the Fact-Finding Mission, attempting to smear the reputation of the members of the Mission. Justice had not been given to victims, and they had received no remedies to the brutality they had faced, nor had the resolutions of international law been implemented. Those responsible for the Gaza massacre continued to enjoy full impunity, and were planning further massacres of the Palestinian people. The Gaza Strip continued to live under occupation and blockade, and its inhabitants continued to suffer. The rights of these people should not be lost as were the rights of the victims of other massacres perpetrated by Israel. There should be an immediate and comprehensive lifting of the blockade, and compensation given to the victims. Those guilty should be held accountable judicially - this was the least the Council could do to support its credibility, and leave behind the double standards that caused it to defend some and ignore others, just because the latter were from a long-lost story.

ABDELWAHEB JEMAL ([Tunisia](#)) said Tunisia wished to thank the High Commissioner for Human Rights and the members of the Fact-Finding Mission for their work. Tunisia welcomed the report of the Fact-Finding Mission and valued the Mission's professional and objective efforts. The Palestinian Authority had once again proved to its willingness to abide by and implement international law and international legitimacy, hence its establishment of an independent committee investigating human rights violations that had occurred in Gaza. Israel on the other hand persisted in refusing to shed light on the truth and uncovering gross human rights violations committed against the Palestinian people. The Fact-Finding Mission must continue to assess Israel's conformity with international law.

OTHMAN HASHIM ([Malaysia](#)) said Malaysia was perplexed that the authorities of the occupying power refused to cooperate with the Committee of Experts. Both primary parties to the conflict had made binding commitments under international humanitarian law. Malaysia noted the Committee's observations on the investigations undertaken by the Palestinian Authority, including the shortcomings. In view of the real and chronic resource and other constraints faced, Malaysia encouraged the Palestinian authorities to continue doing its utmost on this issue. As a party to a number of international human rights law instruments, the burden of compliance with those instruments and the applicable international humanitarian law standards was heavier on the occupying power and it had also greater duty of care on its part to ensure the safety and security of non-combatants during the conflict. In conclusion, Malaysia wanted to hear the Committee's view on the possible ways to follow-up investigations into actions of those involved in designing, planning and ordering Operation Cast Lead.

AHMET UZUMCU ([Turkey](#)) said the work of the Human Rights Council was limited to the humanitarian and human rights aspects of the issue - but these were the aspects that made it so divisive, due to the attitude of Israel to human rights and humanitarian norms. Like any other State, Israel had the right to security and was entitled to take appropriate legal measures for the protection of its citizens, but under this excuse it had developed a culture of violence, and shown an aggressive pattern of behaviour, with disproportionate use of force, collective punishment of civilians, disregard of international human rights and humanitarian norms in all areas, lack of investigation into unlawful acts by the military, impunity for those guilty of human rights violations, lack of cooperation with international human rights bodies, and so on. The international community had not been able to take effective measures to deter Israel from violence in the Occupied Territories and against its neighbours. This led to human drama in the region, and the military occupation in Gaza had caused one of the worst man-made disasters in the history of the conflict, and no serious action had been taken to deal with the human rights impact of the conflict. This was also the background of the attack on the Freedom Flotilla.

HUSSEIN AL-ZUHAIRY ([Iraq](#)) said Iraq welcomed the professional, objective and independent report of the Committee of Experts that had been presented today. Iraq vigorously condemned Israel's violation of the human rights of the Palestinian people and condemned how they were subjected to daily military attacks by Israel. The right of the Palestinian people to an independent State was an undisputed right and the Arab world supported the Palestinian cause. Iraq recognised the Palestinian people's legitimate right to have their rights respected and condemned attempts by Israel to launch further settlement activities in the Occupied Palestinian Territories. In conclusion, Iraq called for all those who had committed humanitarian crimes against Palestinians to be brought to justice.

BARBARA FONTANA ([Switzerland](#)) said Switzerland regretted that Israel had not cooperated with the Committee of Experts, which prevented the Council from having a complete analysis of the situation and evaluating measures undertaken by Israel's authorities. Even if the report did note developments, it was regrettable that a year and a half after the conflict there was only a partial fulfilment of parties' obligations under international law. The fight against impunity did not know half-measures, Switzerland said, adding that there was an urgent need that all parties to the conflict continued with their efforts to bring to justice all those responsible for violations of international law, including those responsible for planning and implementation of military operations. Switzerland wanted to hear more from the Committee about the follow-up measures to help the parties fulfil their obligations under international law and whether there was a need for an extension of the mandate of the Committee to allow for the re-evaluation of the situation in a few months from now. Also, what was the role of the international justice system when parties to a conflict failed to completely fulfil their international obligations?

BOUALEM CHEBIHI ([Algeria](#)) said the Palestinian side was saluted, particularly the Palestinian Authority for their cooperation with the Fact-Finding Mission. Israel, had, however, failed to cooperate. All peace-lovers in the world were concerned over Israel's refusal to consider the recommendations of the Fact-Finding Mission. Algeria also deplored the failure to implement the Council's recommendations in resolution 9/13, particularly the convening of a Conference of the High Contracting Parties before the end of 2010. The failure of the international community to put an end to the blockade was also of concern - the Mission's report had failed to change the situation on the ground. Algeria supported extending the mandate of the Fact-Finding Mission.

DESRA PERCAYA ([Indonesia](#)) said looking at the follow-up to the special sessions, Indonesia could not but note with regret the serious delays and inconsistencies that had crippled the process and brought a negative impact on the effectiveness of this follow-up. The majority of actors involved had failed to implement the recommendations addressed to them, partly through a lack of motivation, but also, in the case of the conflicting parties, especially Israel, out of a deliberate desire to ignore them. The Council, for its part, had fulfilled most of the tasks assigned to it by the Mission. It had further complied with the recommendations made to it by submitting a report to the General Assembly and to the Prosecutor of the International Criminal Court. However, Indonesia deplored the lack of action by other United Nations institutions. On the part of Israel, Indonesia noted the usual distressing lack of goodwill and deliberate contempt for the Council's recommendations. Violations of the fundamental human rights of Palestinians continued unabated even though Israel had partly complied with the recommendation to release some Palestinian prisoners.

ABDULLA FALAH ABDULLA AL-DOSARI ([Qatar](#)) said Qatar welcomed the report of the Committee of Experts and the measures undertaken by the Palestinian side to comply with recommendations of the Independent International Fact-finding Mission on the Gaza Conflict. Qatar regretted the lack of cooperation showed by Israel and called on the authorities to take the necessary legal measures and to implement the recommendations. Qatar also called on all members of the international community to implement recommendations from the Goldstone report and expressed its hope for the extension of the mandate of the Committee of Experts.

MARIAME SY ([Senegal](#)) said Senegal had examined the report of the Committee of Experts with great attention, and welcomed with great satisfaction the efforts made by the Palestinian Authority to respond to the allegations contained in the Goldstone Report, through, in particular, the establishment of an independent commission of inquiry, and encouraged the commission to continue its work. Senegal hoped that all parties involved would undertake the activities that were needed, and, in particular, that the Israeli authorities would accept at last to cooperate with the Committee to allow it to fulfil the mandate entrusted to it by the international community. Israel should go beyond simply softening the blockade on Gaza and should put an end to the occupation in order to allow the Palestinian population and other inhabitants of the occupied territories to live decently and in freedom. The international community should implement all the important recommendations contained in the Goldstone Report, in particular that relative to the Monetary Fund that should serve to indemnify the civilian populations having suffered losses, but also to give victims the psychological aid they needed.

IBRAHIM A.E. ALDREDI ([Libya](#)) thanked the Committee of Experts for their report. That report showed that Israel had persisted in not cooperating with the Committee of Experts. In spite of that, the report loosely spoke of lack of cooperation instead of asserting that there had been no cooperation at all.

Libya considered that the whole report could only lead to one conclusion: that Israel would never conduct independent investigations leading to the conviction of war criminals for crimes undertaken during Operation Cast Lead. As one could not expect that a criminal would put himself on trial, Libya considered that no progress could be achieved. What mattered was to enforce the resolutions and the international community must therefore put on trial Israeli war criminals who had committed crimes in Gaza and the other Occupied Palestinian Territories.

EILEEN CHAMBERLAIN DONAHOE ([United States](#)) said that the United States had opposed the creation of this Committee of Experts which stemmed from the deeply flawed Goldstone report. The United States appreciated that the Tomuschat Committee had not jumped to conclusions on Israeli's motives or recommended follow-up in the United Nations. Allegations of violations of international law that had taken place during the Gaza conflict warranted effective domestic follow-up action and the primary responsibility for investigations rested with the parties. Israel had the mechanisms to investigate such questions, as the Committee's report confirmed. The Israeli Government had also changed its military operational guidelines to better protect civilians during conflict, which together with Israel's investigations, prosecutions and public reports was all evidence of ongoing and credible domestic inquiries. Because Israel had the ability to conduct credible investigations and serious self-scrutiny, further follow-up of the Goldstone report by United Nations bodies was unnecessary and unwarranted. The United States welcomed the view of the report that all parties to the conflict had responsibilities under customary international law.

MARIA LUISA ESCOREL DE MORAES ([Brazil](#)) said Brazil regretted that the Government of Israel had not fully cooperated with the Committee of Experts. Engagement and dialogue were important, especially to make public one's point of view. Brazil called upon its Israeli friends now to follow up on the report in a forward-looking manner. Brazil called on all parties to undertake the measures recommended by the Committee of Experts, with a view to holding accountable those responsible for human rights and humanitarian law violations. Justice could help seed a new beginning, one based on peace and reconciliation. Brazil was closely following developments in the peace process, and hoped the direct talks would produce concrete results that led to the creation of a Palestinian State within the pre-1967 borders, a State that secured to the Palestinian people a dignified life, co-existing, side by side and in peace with the State of Israel, as this would certainly bring an end to Israel's security concerns. Peace, not force, was the only solution. Freezing construction in the settlements in the occupied territories and lifting the Gaza blockade were crucial in this process, as was the end of attacks, by all parties, against civilian populations.

NAHIDA SOBHAN ([Bangladesh](#)) said Bangladesh welcomed the Committee of Experts' efforts and appreciated that the Palestinian Authority had established an independent investigation commission. However, Bangladesh deeply regretted that the Committee of Experts had not been granted access to Israel and the West Bank and that it had not received any cooperation from Israel. The Committee's report clearly revealed that the Israeli initiatives lacked commitment and credibility and that the actual investigations of Israel's military investigations raised a conflict of interest. Bangladesh drew the Council's attention to the fact that while deploring the injustice against Palestinians, several Israeli settlers were celebrating groundbreaking ceremonies in the West Bank, which was a demonstration of what an entity could do if it was granted impunity. The Human Rights Council must stand by the Palestinians who deserved a life of dignity as much as any other people. Peace in the Middle East could only be achieved through the recognition of the legitimate rights of the Palestinians.

MUNA ABBAS RADHI ([Bahrain](#)) said Bahrain thanked the Committee of Experts' fact-finding mission and said their report reflected the internal investigations conducted by both parties. Bahrain regretted that Israel had failed to carry out its internal investigations into violations of international human rights law and international humanitarian law. Bahrain wondered how it would be possible to push forward the Committee's recommendations and the recommendations of previous reports by the High Commissioner and other United Nations reports. Those recommendations were valid, Bahrain said, and had to be implemented as soon as possible.

HAMZA AHMED ([Sudan](#)) said Sudan welcomed the presence of the Committee of Experts, and was pleased with the report produced thereby, appreciating the efforts of the Palestinian Authority and its cooperation with the Committee of Experts. However, Israel did not find it useful to cooperate with the Committee nor to investigate violations committed by members of the Israeli army that led to the deaths of more than 1,400 people. Israel was continuing its crimes against the Palestinian people and continuing to starve them. The Human Rights Council should put an end to the impunity enjoyed by Israel and its leaders, and should continue its work in investigating the human rights violations perpetrated against the Palestinian people.

OBAID SALEM SAEED AL ZAABI ([United Arab Emirates](#)) said the United Arab Emirates wished to express appreciation to the members of the Committee of Experts whose report was a source of concern and discouragement. The acts dealt with were tantamount to war crimes and crimes against humanity. The United Arab Emirates wondered until when the international community could accept that Israel hindered the efforts of the United Nations and other bodies and until when could it continue refuting reports of experts on the basis that they were biased. There had been numerous committees and reports on Israel's violations of international humanitarian law and every time Israel had avoided the consequences.

OMAR HILALE ([Morocco](#)) said Morocco welcomed the members of the Committee of Experts and thanked them for the professional and expert report submitted. Morocco hoped that the recommendations would be implemented and that there would be an extensive cooperation with the Commission in order to ensure that there was a thorough investigation of violations. The necessary support from the international community to the parties would ensure their participation in this process. The events in Gaza were a blemish and the international community must do its utmost to put a stop to such acts so that they did not tarnish the few results that might come from the talks in Washington.

AHMED SULEIMAN IBRAHIM ALAQUIL ([Saudi Arabia](#)) said Saudi Arabia applauded the efforts deployed to prepare the report under consideration today. The report was professional and objective, and in line with international standards, and Saudi Arabia applauded its conclusions and recommendations, as it did the cooperation extended by the Palestinian Authority. Israel, however, continued to ignore the international mechanism, denying it access to the Occupied Palestinian Territory, and Saudi Arabia condemned Israel's continued intransigence and lack of cooperation in accordance with its international commitments. This was not in conformity with international standards. The investigations carried out by Israel were carried out by the same person and authority that carried out the onslaught on Gaza. The efforts of the Committee of Experts were applauded, and the mandate and mission should be extended.

MAYSA ZOROB, of [International Federation for Human Rights](#) , said the recommendations of the Fact-Finding Mission represented a pivotal point in the history of Israel and the Occupied Palestinian Territories. For the first time, a United Nations body explicitly recognised the need for accountability and laid out specific mechanisms and processes to ensure that justice could be finally achieved. In light of the ineffectiveness of domestic mechanisms, it was now imperative that the international community act to ensure accountability and uphold the rule of law. Justice was a necessary precondition to the achievement of sustainable peace and must form the integral foundation of any peace negotiations.

LEON SALTIEL, of [United Nations Watch](#) , said the Committee's report set forth the duty of investigators to be independent. However, according to news reports, Mr. Professor Tomuschat had helped prepare a legal brief for Yasser Arafat in 1996, advising him on how to bring his case before the United Nations. Would Mr. Tomuschat not agree that this contravened the principle of independence? Also, how was it that last month, at the same time as Hamas openly claimed credit for murdering four Israelis, the Committee had been engaging with Hamas as a serious stakeholder that might investigate its crimes against civilians?

DARAGH MURRAY, of [Palestinian Centre for Human Rights](#) , said that one year ago the Human Rights Council had requested an investigation in international law violations committed during the Gaza attack. As noted by the Committee of Experts, Israel had not opened investigations into acts of those who planned and implemented the operations. Equally, no action had been undertaken by the Palestinian Authority, according to the Committee. Accountability within domestic systems was unattainable and both sides had repeatedly proven themselves unable or unwilling to comply with the demands of international law. Resorting to mechanisms of international justice was now an urgent necessity and that meant that the United Nations Security Council had to refer the situation in Israel and Palestine to the International Criminal Court, so that genuine investigations were finally carried out and those committing those horrific crimes were finally brought to justice.

RANIA AI MADI, of [Badil Resource Centre for Palestinian Residency and Refugee Rights](#) , said that the Badil Resource Centre for Palestinian Residency and Refugee Rights had been monitoring the ongoing domestic investigations conducted by Israel and the Palestinian authorities and that they had failed to meet the international standards. Palestinian authorities did not have the ability to meet those standards, mainly due to foreign occupation and internal divisions. Israel had failed to conduct a credible investigation for lack of will and its investigations had been marred by a conflict of interest, were structurally flawed for failing to scrutinize the whole operation and had failed to provide effective judicial remedies to victims. The Badil Resource Centre for Palestinian Residency and Refugee Rights urged the Council to request that the United Nations Security Council refer the Gaza investigation to the

PETER SPLINTER, of Amnesty International, said Amnesty International shared the assessment of the Committee of Experts that Israeli and Palestinian investigations into violations under international law identified in the United Nations Fact-Finding Mission Report had not met the standards required by the General Assembly. The Israeli authorities and the Hamas de facto administration were both failing to fulfil their obligations to carry out investigations that were credible, independent and in conformity with international law, and to demonstrate a commitment to prosecuting suspected perpetrators of crimes under international law. Both sides had had more than adequate time to investigate the violations; an international justice solution must now be found. The Human Rights Council should support such a solution by, among others, recognising the failure of the investigations conducted by Israel and the Hamas de facto administration to satisfy international law and standards, and call on States to investigate and prosecute crimes committed during the conflict before their national courts by exercising universal jurisdiction.

Concluding Remarks

CHRISTIAN TOMUSCHAT, Member of the Committee of Experts, in concluding remarks, said the Members of the Committee had listened very carefully to all the comments and observations made during the discussion, and were grateful for the appreciation of their work expressed by almost all speakers. The Committee had only an incomplete basis of information, and it should not be overlooked that this was still an ongoing situation. The Gaza war now lay 20 months in the past, and criminal proceedings required careful handling: one year from now the picture may be much clearer. The Committee hoped all sides would embrace the criteria the Committee had set as guidelines for credible investigation. The emerging right to the truth should be used as the determining standard. This was his main recommendation and probably that of his colleagues. It was not their task to conceive strategies and enforcement measures for the recommendations - this was a political decision incumbent on the Council, and not on the Committee. With regard to the statement of UN Watch, he did believe in the judicial settlement of international disputes, but he thought that UN Watch clearly did not.

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