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Palestinian Authority: Hamas fails to mount credible investigations into Gaza conflict violations

Recent measures taken by the Hamas de facto administration do not begin to constitute credible investigations into serious violations alleged to have been committed by Palestinian armed groups during last year's conflict in Gaza and southern Israel, Amnesty International said today.

In a letter sent today to Isma'il Haniyeh, head of the Hamas de facto administration in Gaza, Amnesty International expressed its concern that the administration's response this month to UN calls for it to carry out such investigations have, in particular, failed to address adequately the firing of indiscriminate rockets into southern Israel by Palestinian armed groups during the 22-day conflict.

Hamas claimed in its response that Palestinian armed groups did not target civilians. However, this is contradicted by earlier statements made by armed groups, including Hamas' military wing, in which they claimed responsibility for rocket attacks which they stated were directed at civilian towns and which killed or injured civilians and damaged civilian homes.

Armed groups have an obligation to respect applicable international humanitarian law. The firing of indiscriminate rockets by Palestinian armed groups into Israel during Operation "Cast Lead" killed three Israeli civilians, and caused injuries to other civilians and damage to civilian property. Whether these attacks were intended to hit military or civilian objects, the use of unguided projectiles which could not be directed at specific targets, so placing the civilian population at risk, violates international humanitarian law and constitutes a war crime.

Other parts of the Hamas response focus on making general justifications for the rockets fired by armed groups and express no intention to investigate any of these incidents, much less to prosecute the individuals responsible.

As well as continuing concerns regarding the firing of indiscriminate rockets, the response fails to seriously address other concerns raised by Amnesty International. These include concerns that Hamas and other Palestinian armed groups violated international law by launching rockets and locating military equipment and positions near civilian homes, actions which endangered the lives of the inhabitants by exposing them to the risk of Israeli attacks.

The Hamas response also provides no indication that Hamas is conducting credible investigations into the wave of abductions, deliberate and unlawful killings, torture and death threats by Hamas forces and militias during and immediately after

Operation “Cast Lead” against those they accused of “collaborating” with Israel, as well as opponents and critics.

The measures which the Hamas administration says it has carried out include the establishment of a governmental committee to monitor the implementation of the recommendations of the UN Fact-Finding Mission on the Gaza Conflict (Goldstone Report) and of an independent international committee of experts in international law to assess the adequacy of the steps taken by the Hamas administration. In its letter today, Amnesty International requested clarification of the terms of reference, authority and powers of these bodies, as well as the timeline for their work and whether their full findings will be made public. The Hamas administration has also said that the public prosecutor has been commissioned to investigate all violations of international law reported to him. Amnesty International has asked for details about how many such allegations have been received by the prosecutor to date and how many have been investigated.

Background

Around 1,400 Palestinians and 13 Israelis were killed in the 22-day conflict in Gaza and southern Israel which ended on 18 January 2009. After the conflict, the UN Human Rights Council mandated the renowned jurist Judge Richard Goldstone to head a fact-finding mission to investigate allegations of war crimes and other violations of international humanitarian and human rights law. In a report published in September 2009, Judge Goldstone and his team concluded that both the Israeli military forces and Palestinian armed groups committed war crimes and possible crimes against humanity.

A resolution passed in November 2009 by the UN General Assembly called on both the government of Israel and the Palestinian side to conduct investigations that are “independent, credible and in conformity with international standards into the serious violations of international humanitarian and international human rights law reported by the Fact-Finding Mission, towards ensuring accountability and justice”.

On 2 February 2010, in response to this call, the Ministry of Justice of the Hamas de facto administration in Gaza submitted three documents to a UN official of the Office of the High Commissioner for Human Rights in Gaza. The Palestinian Authority made a separate submission to Secretary-General Ban Ki-moon via the Palestinian mission in New York, as did the Israeli government. Ban Ki-moon issued a report on 4 February in which he indicated that “no determination can be made” on whether either the Israelis or Palestinians had implemented the UN General Assembly resolution. The report referred to the responses of the Palestinian Authority and Israel, but not that of Hamas.

The response of the Palestinian Authority has been to form an investigative commission to follow up the Goldstone Report. The commission submitted an initial report but have not detailed specific incidents that they will investigate. Given that the Palestinian Authority in the West Bank was not party to the conflict in Gaza and southern Israel, that it was not then, and is not now, in a position of effective control over Gaza, and the poor relationship between the Palestinian Authority and the Hamas de facto administration in Gaza, it is unclear to what extent the commission will be able to effectively investigate allegations of serious violations by Palestinians, such as the firing of indiscriminate rockets from Gaza into southern Israel, which was identified as a key concern in the Goldstone Report.

Amnesty International has called the Israeli response on investigating violations “totally inadequate”. See the organization’s press release *Latest Israeli response to Gaza investigations totally inadequate* (Index: PRE 01/033/2010) of 2 February 2010 for more details.

Amnesty International has urged UN Secretary-General Ban Ki-moon to immediately prepare an independent assessment of the steps being taken by Israel and the Palestinian side to address accountability, with a view to the UN taking further action as necessary to ensure justice for the victims of the conflict. See the organization’s public statement *Israel / Occupied Palestinian Territories: Ban misses crucial opportunity to advance accountability for Gaza conflict* (Index: MDE 15/003/2010) of 5 February 2010 for more details.