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Israel-Palestine: Domestic investigations have failed to meet international standards; UN Security Council must ensure accountability

The ICJ urges the Security Council to take concrete measures to ensure accountability for human rights violations and breaches of international humanitarian law committed by Israeli Defense Forces (IDF) and Palestinian armed groups during Operation Cast Lead, December 2008 - January 2009. Israeli investigations have failed to meet international standards of effectiveness, independence and impartiality. The Hamas administration in Gaza has also failed to provide any concrete evidence of investigating violations committed by Palestinian armed groups during this period.

A Panel of Independent Experts established by the United Nations (UN) Human Rights Council to monitor and assess domestic investigation by both parties concluded yesterday that these investigations *"remain incomplete in some cases or fall significantly short of meeting international standards in others."*

The Israeli investigations were conducted under the supervision of the Military Advocate General (MAG). The MAG provided legal advice to the Israeli Defense Forces (IDF) during planning and execution of the military operations in Gaza. *"Even when Israeli investigations revealed that IDF targeted civilian objects resulting in civilian deaths, the MAG failed to order criminal investigations. Two commanders who authorized shelling in a populated area were only reprimanded,"* said Wilder Tayler, ICJ Secretary General.

The MAG concluded that there was no basis for criminal investigations into the most serious breaches of international humanitarian law documented by the Goldstone report, including direct attacks against civilians and civilian objects; strikes on UN and medical facilities, buildings, vehicles and crews; the use of weaponry containing phosphorous in densely-populated areas, and the use of Palestinian civilians as human shields by the IDF.

The Hamas administration in Gaza has failed to provide any concrete evidence of investigating the indiscriminate rockets attacks against civilians and civilian objects in the South of Israel, asserting that these attacks were directed only at military targets.

"Instead of investigating the indiscriminate rocket attacks on civilians and civilian objects in the south of Israel, the Hamas administration has simply denied such attacks. This contradicts several public statements made by Hamas civilian and military leaders during the war in Gaza justifying the use of any means in order to protect the Palestinian population in Gaza," said Tayler.

Both Israel and Hamas have failed to meet their obligations under international law to conduct credible and independent investigations. *"The Human Rights Council must therefore assess these domestic proceedings and report accordingly to the UN General Assembly and Security Council,"* said Tayler. *"The Security Council must take concrete and robust measures to ensure accountability for the perpetrators and justice for victims, and to this end consider the options at its disposal to break the cycle of impunity prevalent in this conflict, including by referring the situation in Gaza to the International Criminal Court,"* concluded Tayler.

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