

ISRAEL

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Statement by

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Ministry of Foreign Affairs, Jerusalem

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Mr. Chairman,

With the publication of an initial Report by a new Special Rapporteur, there was cause to hope that we might be presented with a more insightful, balanced and constructive approach to the situation in our region. However, to our dismay, we note that the latest Report is merely another prefabricated uniform, designed to conform to the partisan political position which has taken root in the Human Rights Council.

The Report's unbalanced nature is hardly surprising, however, given the fact that it is the product of a mandate which prejudices and predetermines the very outcome of its findings.

This mandate has not been reviewed or scrutinized as required by the constitutive document which established the Human Rights Council itself, UNGA Resolution 60/251. The mandate was scheduled to be reviewed during the March session of the Human Rights Council this year, but was overlooked at that time due to the usual pressure exerted by certain member states seated in this hall, and then again ignored in September of this year. The Council's failure to undertake a meaningful and candid review undermines both the Report before us, and the very integrity of the Council.

In this context, it should be noted that other States have joined Israel in calling for a review of the nature of the mandate and have been critical of its inherent biases. Indeed, even the newly elected Rapporteur has urged that the mandate be reworked so as to be "more balanced in the scope of its undertaking" and include human rights violations committed by Palestinians. Unfortunately, the Rapporteur failed to include this call in his final list of recommendations.

Let us recall, that since the creation of this mandate more than a decade ago, in 1993, reality has dramatically changed on the ground, with the Israeli-Palestinian Interim Agreement and the consecutive arrangements, the creation of the Palestinian Authority, Israel's disengagement from Gaza and the Hamas violent seizure of Gaza shortly after. However, no review has ever taken place since.

Beyond the imbalance inherent in the mandate, the one-sidedness of the latest Report is exacerbated by the highly politicized views of Rapporteur himself. Indeed in light of his vehement publications in the past it is hard to square his appointment with the requirements of the Council's own internal procedures which call for the appointment of mandate holders who are impartial, objective and possess the quality of personal integrity.

The Report itself claims to be based upon "reliable information gathered by human rights NGOs and international institutions, including the United Nations, which have a long record of objectivity" (para. 3). However, it should be noted that, with the exception of certain Israeli sources, the Report is silent as to the identity of such sources, making it impossible to verify their reliability.

Mr. Chairman,

One of the more troubling aspects of the latest Report is the legitimacy it provides to Hamas, a group which is recognized throughout the world as a terrorist organization. In the Report Hamas is presented as a positive and legitimate actor, as the "governmental entity currently administering the Gaza Strip" (para. 2), and as a "concerned government" (para. 3.) which "took over administrative control in Mid June 2007" (para. 6).

The Report's embrace and legitimization of Hamas, an organization which proudly advocates atrocities in total violation of basic human rights, is an affront to this forum. Moreover such an approach undermines genuine Palestinian moderates and all those who demonstrate a genuine respect for human rights.

Such positive characterizations of Hamas also stand in marked contrast to the June 2007 Report of the Special Co-coordinator on the Middle East for the UN Secretary General. In that Report, Hamas' violent seizure of the Gaza Strip is presented in no uncertain terms, and the organization's serious violations of humanitarian and human rights law are described in great and chilling detail.

The Report repeatedly asserts that it is Israel which has imposed certain conditions (recognition of Israel, affirmation of past agreements with the PA, and renunciation of violence) which Hamas must fulfill before it will cease to be considered a terrorist organization (see e.g. para. 13, 58). But the suggestion that it is Israel which introduced conditions on Hamas is both unfounded and misleading. Indeed, it should be clarified that such conditions have been imposed by the Quartet, comprising the UN, the EU, the United States and Russia, and subsequently embraced by the international community, including Israel.

The Report is misleading not only about the origin of these conditions, but also about their implementation. It cites a lone Israeli academic (whose area of expertise, it should be noted, is Iran, and not the Israeli-Palestinian conflict), as support for its assertion that Hamas may have implicitly recognized the state of Israel (para. 13). At the same time it ignores the fact that Hamas' own leaders repeatedly continue to call for the total destruction of the State of Israel; to reject a two-State solution; to reject the Annapolis process, and to declare their active support for terrorism. Instead of quoting isolated academics, the Report would have done better to cite Hamas officials, such as Khaled Meshal recently reiterated: "No, the question of recognition [of Israel] is out.There are other formulas, but we have already stated that recognition is not among them." (Euronews, July 11, 2008)

Mr. Chairman,

In addition to these troubling questions of principle, the Report also includes significant factual and legal errors and misrepresentations. Indeed the omissions of the Report are frequently more revealing than its content. For example :

- The Report deals at length with Israel's defensive measures, but fails to mention, even once, the Palestinian terrorism that Israel faces. Indeed, the word "terrorism" is never even used throughout the 29 pages of the Report. Instead, the Report supports a "right to resist". In March 2008, 8 Israeli high school students were murdered in Jerusalem

in the name of that "right to resist". In July 2008, 3 Israelis were smashed to death in a suicidal car attack in Jerusalem, in the name of that so-called 'right'.

- The Special Rapporteur discusses at length the unsubstantiated claims of harassment made by a single Palestinian journalist at an Israeli border crossing. But it ignores the fact that the official records of the claimed incident and objective, and follow-up investigative reports show that the account of the incident was incorrect and misleading.
- The Report is highly critical of Israeli roadblocks, but fails to note the compelling security reasons for placing them, nor the recent and widely praised removal of various roadblocks in the West Bank, including the Rimonim roadblock, the Ein Bidan roadblock, the Beit Arava roadblock, and roadblocks in the Nablus area. The Report also ignores the recent opening of intersections adjacent to Hebron and Shavei Shomron for Palestinian traffic.
- The Report is critical of IDF closures of Palestinian "charitable organizations" and other seemingly legitimate institutions and business establishments (including the Nablus Mall), but turns a blind eye to the true nature of such institutions, which serve as a cover for terrorist fundraising and activities.
- The Report criticizes the state of health in the West Bank and Gaza, but fails to note that Israel has granted tens of thousands of Palestinians entrance permits into Israel for medical treatment on an annual basis. It speaks of the trauma on the Palestinian side but conveniently is silent with respect to the Israeli trauma victims from unceasing firing of Kassam missiles and suicide attacks.
- The Report tries to argue that the Gaza Strip is occupied territory and that Israel continues to exercise "effective control" over Gaza. But it ignores the legal fallacies in this argument, pointed out repeatedly in response to previous Rapporteur's reports. It also ignores the simple fact that if Israel genuinely exercised effective control over Gaza, it would have been able to effectively act against the thousands of rocket attacks on Israel proper launched from Gaza since 2005; it would have prevented the hostile incitement to violence and hatred, and would have been able to effectively prevent the smuggling of arms, weapons and terrorists to Gaza.
- The Report describes restrictions on access of goods to Gaza, but ignores the fact that Israel ensures that humanitarian needs in Gaza are met, and that Palestinians freely petition Israel's Supreme Court to ensure that such policies are in conformity with international and humanitarian standards. It also fails to mention that humanitarian assistance channels are often abused and crossings between Israel and the Palestinian territories are regularly attacked by terrorists.

Overall, the Report fails to take into account the context in which Israel's operations have been necessitated since the outbreak of violence in 2000. It fails to mention that most of the terrorist attacks were directed towards civilians and carried out from within civilian populated areas. It fails to mention the "human guided bombs" and suicide terrorism, nor the fact that the attacks were designed to take human lives and sow fear and panic. Terrorism has turned into a strategic threat, where over a quarter of a million Israeli

civilians find themselves under daily threats of missiles and rockets fired from the heart of civilian Palestinian areas.

Mr. Chairman,

Israel supports self determination for the Palestinian people. This conviction has led us to make far-reaching compromises, to engage in serious negotiations with moderate Palestinian partners, and to embrace a two-state vision. Unfortunately, at a time at which Israeli-Palestinian negotiating teams are working tirelessly to solve this complex dispute, the Report before you continues to present a skewed "reality", predetermined by a biased political agenda, which turns a blind eye to terrorism and unceasing rocket attacks on Israeli civilian targets. In such a warped "reality" the rights of Israeli citizens to life are completely ignored, as well as the binding obligations of the Palestinians.

Israel faces, on a daily basis, painful dilemmas regarding how to strike the correct balance between the right of Israelis to engage in self defense and protect themselves from terrorism, and the right of Palestinians to live their lives unimpeded.

In such a delicate environment, Israel has never claimed to have all the answers. We do believe, however, that we are, to a great extent, asking the right questions, namely: how to thwart the terrorists' activities without making life unbearable for the population behind which they hide.

In searching for answers to these intractable questions, Israel is open and keen to engage in a constructive discussion with all parties who have a genuine interest in humanitarian protection and the welfare of all sides to the conflict.

Sadly, the polemic submitted as the latest Report before you has little or nothing to contribute to such a debate, and glosses over the complex realities of our daily life. To the contrary, by failing to make any dissection between terrorists and victims, between those committed to upholding humanitarian standards and those who view them as a shield for committing atrocities, the Report undermines the basic distinction that lies at the heart of humanitarian protection.

Thank you.