

HUMAN RIGHTS WATCH

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April 14, 2009

The Honorable Hillary Clinton
Secretary of State
United States Department of State
Harry S. Truman Building
2201 C Street, NW
Washington, D.C. 20520

Via fax: 202-647-2283

Dear Secretary Clinton,

Human Rights Watch believes there continues to be a pressing need for an independent and impartial international investigation into allegations of serious laws of war violations by all parties to the conflict in Gaza and southern Israel. For this reason we welcome the April 3 announcement by Martin Uhomoibhi, president of the UN Human Rights Council, that Justice Richard J. Goldstone will lead a UN Human Rights Council fact-finding mission with precisely this mandate. I am writing to ask that the United States express full support for Justice Goldstone's efforts, and urge all parties to the conflict to cooperate fully with him and his team.

Justice Goldstone, the former chief prosecutor of the international war crimes tribunals for the former Yugoslavia and Rwanda, is a highly credible, effective and impartial jurist. He has the experience and proven commitment to ensure that the inquiry will demonstrate the highest standards of impartiality. He will be joined by a team of well-respected international military and human rights experts. In his remarks to the press on April 3, Justice Goldstone made clear that the mission would look at "all human rights violations and international humanitarian law rights violations committed both in Israel and in Gaza and in the Occupied Territory." President Uhomoibhi added that he has asked the fact-finding mission to "produce a report that is fair, that is balanced and that is impartial; that will address the question of proportionality. You cannot address proportionality in a vacuum."

Human Rights Watch has strongly criticized the Human Rights Council in the past for its one-sided, exclusive focus on Israeli rights violations in earlier conflicts involving Israel. However, Justice Goldstone has made clear that he is committed to an independent

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and impartial investigation into allegations of international human rights and humanitarian law violations by Israeli security forces and Palestinian armed groups alike. His distinguished career leaves no doubt that he will do so.

We strongly believe that such an independent investigation is required. Prior to the Israeli military operations that began on December 27, 2008, throughout the fighting, and in the more than two months since, Hamas and other Palestinian armed groups fired hundreds of rockets into Israeli civilian areas, in flagrant violation of prohibitions against deliberate and indiscriminate attacks on civilians. Human Rights Watch has also publicly reported on serious violations of the laws of war by the Israel Defense Forces (IDF), including the firing of white phosphorus munitions into densely populated areas of Gaza, as well as a blockade preventing the movement of essential goods and people into and out of the Gaza Strip – a policy that amounts to the unlawful collective punishment of the civilian population.

Hamas has shown no inclination to investigate or prosecute laws of war violations committed by Palestinian fighters, and its spokesmen continue to justify the rocket attacks that target Israeli civilians. Israel claims to have launched internal inquiries, but Human Rights Watch's past research into IDF investigations and prosecutions regarding the wrongful deaths of Palestinian civilians found that Israeli investigative practices and procedures were not thorough, impartial, or timely. The IDF has already declared that in Gaza it used white phosphorous in compliance with international humanitarian law but Human Rights Watch's findings contradict this claim. On March 19, nine Israeli human rights organizations issued a statement strongly criticizing the Israeli government's failure to establish an independent and impartial investigative body to look at the conduct of IDF forces in Gaza.

Given the seriousness of the allegations and the past failures of both sides to investigate unlawful behavior by their own forces, we urge you to support Justice Goldstone's investigation. In particular, we call on you to press all parties to cooperate fully with his work. Both Israel and Hamas should allow unhindered access to victims, witnesses and others, and provide relevant information on their respective military activities in connection with the incidents under investigation. The United States should make clear that it expects nothing less from the parties to the Gaza conflict.

Just as the US has supported critical efforts to combat impunity for serious crimes in violation of international law in other deadly conflicts, it should welcome the establishment of a credible international investigation into alleged serious violations in Gaza and southern Israel, and urge all parties to extend their full cooperation. A failure to do so will leave the impression that US policies reflect unacceptable double standards with regard to the Gaza conflict. Such a failure will have serious negative consequences for US credibility as a global voice against impunity and its ability to insist on justice for serious crimes elsewhere.

We thank you for your attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth Roth". The signature is written in a cursive style with a large, prominent initial "K".

Kenneth Roth