

Draft U.S. Statement
Human Rights Council for September 2009 (HRC 12)
Response to the Report of the International
Independent Fact-Finding Mission

Thank you, Mr. President. I appreciate the opportunity to address the Council.

Earlier this year, President Obama expressed his deep concern over loss of life and human suffering in Israel and Gaza. He made clear his abiding commitment to comprehensive peace in the Middle East, in which two states – Israel and Palestine – live side by side in peace and security.

The United States continues to take issue with the grossly disproportionate attention the Council pays to Israel. When we decided to join the Council our intention to address this lack of balance was clear. We urge our fellow members to join us in rejecting this double standard.

We have approached this report applying broad principles. First, to engage in discussion of this report and broader issues relating to Israel and the Palestinians in a fair and honest way. Although we disagree sharply with many of the report's assessments and its recommendations and believe it to be deeply flawed, we

recognize Justice Goldstone's distinguished record of public service and his efforts to promote global justice.

Second, we are guided by our commitment to universal application of international law. But this should not be understood to imply a moral equivalence between Israel, a democratic state with the right of self-defense, and Hamas, which responded to Israel's pull-out of Gaza by terrorizing civilians in southern Israel.

The Goldstone report includes a number of serious allegations charging Israel and the Palestinians with violations of human rights and humanitarian law. We take the allegations seriously. We are confident Israel has the ability to carry out robust investigations. Israel has investigated at least 100 Gaza-related complaints and is currently pursuing action in 23 cases. We encourage Israel to utilize appropriate domestic review and meaningful accountability mechanisms to investigate and follow up on credible allegations. Hamas is not a government and lacks the willingness and capacity to investigate its own violations of international humanitarian law and human rights. Nevertheless, this body should demand that Hamas investigate the allegations and end deliberate targeting of civilians and its use of Palestinians as human shields. The Council should ask the Palestinian Authority to carry out its own investigation.

Third, commitment to the truth should compel this body to discuss weaknesses in the report. The report makes negative inferences about the intentions of Israeli officials and the Israeli criminal justice system on the basis of a limited factual record. It draws condemnatory conclusions of law, treating accusations and inferences as fact. These unbalanced assumptions taint many of the report's recommendations for international action.

The report fails to deal adequately with the asymmetrical nature of this conflict or assign appropriate responsibility to Hamas for its decision to base itself and its military operations in heavily populated areas. While national militaries are bound by humanitarian law, terrorists ignore these laws. Though the report deals briefly with these issues, its findings of fact and law are equivocal.

We also have very serious concerns with about the recommendations that these allegations be taken up by the UN Security Council and then possibly referred to the International Criminal Court without allowing sufficient scope for domestic Israeli investigations under the principle of complementarity. If this standard were applied in every conflict situation around the world where there are alleged

violations, then the role of the Human Rights Council would be dramatically different.

We urge members of this Council to commit with us to passing a consensus resolution that encourages Israel to investigate and address allegations through credible domestic processes and calls on the Palestinians to launch credible investigations to address allegations of Hamas abuses and demand that Hamas stop its clear violations. If undertaken properly and fairly, these reviews can serve as important confidence building measures that will support the larger, essential objective, which is the shared quest for a just and lasting peace.

Thank you.