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UNITED NATIONS

Press Release

UN HEALTH RIGHTS EXPERT CALLS FOR INDEPENDENT ENQUIRY INTO ALLEGED WAR CRIME IN GAZA

Wednesday 19th July 2006

The United Nations Human Rights Council's Special Rapporteur on the right to the highest attainable standard of health issued the following statement today:

As the world's attention is drawn to the widening conflict in Lebanon, it is extremely important that the deepening humanitarian crisis in the Gaza Strip is closely monitored and urgently addressed.

The depth of this crisis cannot be understood without grasping the acute dependency and vulnerability of the population of Gaza. Amongst the most densely populated place in the world, Gaza has been occupied by Israel for almost 40 years. Its population of 1.4 million, most of whom are refugees, remains very heavily dependent on Israel, as well as the donor community.

For a variety of reasons, the humanitarian situation in Gaza deteriorated significantly between March and June 2006. In mid-June, WHO called the health situation in Gaza "very dangerous".

Following the events of 25 June, including the capture of Corporal Gilad Shalit, Israel has carried out numerous military interventions in the Gaza Strip. According to UN sources, more than 100 Palestinians have been killed, including 18 children. Almost 400 Palestinians have been injured, including 108 children. With limited exceptions, Israel has sealed Gaza's borders. Some patients returning home to Gaza after medical treatment abroad, and some patients seeking treatment abroad, have been unable to pass through the Rafah crossing: while waiting, nine Palestinians have died. On the night of 27-28 June, Gaza's only electricity power station was attacked and incapacitated.

In short, since WHO's assessment in mid-June, the precarious humanitarian situation in Gaza has dramatically worsened. Poverty rates, for example, have now risen to 75%.

Here, I confine myself to some brief, preliminary remarks about the impact of the destruction of Gaza's electricity power station, as well as the relevant international law.

Following the attack, the lack of power for pumps is causing a serious water shortage, and affecting sewage disposal, for tens of thousands of households throughout the Gaza Strip. There are reports of sewage leakage, as well as a reduction in municipal waste collection and disposal. Reported cases of diarrhoea have increased by 163% compared to the same period last year. It is possible that communicable diseases, like cholera and poliomyelitis, will re-emerge. Reduced hospital services are dependent upon generators that are unsuitable for constant, long-term use.

The right to the highest attainable standard of health includes access to medical services and also access to adequate sanitation and safe drinking water. The destruction of Gaza's electricity power station is profoundly inconsistent with the health and safety of all civilians living in Gaza, especially the young, sick, infirm and elderly, as well as their right to the highest attainable standard of health, enshrined in the International Bill of Rights and other international human rights instruments.

Moreover, the destruction of Gaza's electricity power station may be a violation of international humanitarian law (sometimes known as the 'laws of war').

The basic rule of international humanitarian law is that parties to a conflict must always distinguish between combatants and civilians. Attacks can only be directed against combatants and military objectives.

Under international humanitarian law, a target may be attacked if it is both making an effective contribution to the enemy's military action and its destruction provides a definite military advantage to the attacker. Whether or not both conditions applied in the case of Gaza's electricity power station is an issue that demands careful, independent investigation.

In addition, an attack must be proportionate. A target may not be attacked if the attack is likely to cause a disproportionate amount of collateral civilian damage. Whether or not the Israeli attack on Gaza's electricity power station was proportionate is another issue that demands careful, independent investigation.

When undertaking this enquiry, it is imperative that, in addition to military matters, other relevant issues are also taken into account, including the acute dependency and vulnerability of the people of Gaza. When the power station was attacked, what was the foreseeable incidental impact on the civilian population of Gaza?

If the attack on the electricity power station was not in conformity with international humanitarian law it amounts to a war crime. For example, if the attack were disproportionate, it was a war crime.

In these circumstances, I strongly recommend that, as a matter of urgency, an independent enquiry be made to determine whether or not the recent attack on Gaza's electricity power station was a war crime.

Under the mandate given to me by the Human Rights Council, I am required to report "on the status, throughout the world, of the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health". I am also required to report on the domestic and international "obstacles" impeding the implementation of this human right. If a war crime bearing upon the health of the population of Gaza has been committed, it constitutes a very significant "obstacle" to the implementation of the right to the highest attainable standard of health. It is for this reason that I urge the swift establishment of a careful, independent enquiry into the attack on Gaza's electricity power station, in the light of international humanitarian law. The assessment should also take account of all relevant international human rights law.

Finally, I urge the captors of Corporal Gilad Shalit to release him unharmed immediately. Pending his release, he must receive appropriate medical assistance and care, and he must be treated humanely. Also, I remind all parties that the prohibition against targeting a civilian population applies to civilians within both Israel and the Gaza Strip. All such targeting should cease immediately.

In May, I wrote to the Government of Israel seeking an invitation to visit the OPT. I look forward to receiving a positive reply as a matter of urgency, enabling me to assess the health situation, through the lens of the right to the highest attainable standard of health, at first hand.

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The Special Rapporteur is an independent expert appointed by the United Nations Human Rights Council to help States and others promote and protect the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

For further information on the Special Rapporteur's mandate and copies of his reports please consult the website of the Office of the High Commissioner for Human Rights (http://www.ohchr.org).