Joint report on a mission to Lebanon and Israel by four special procedure mandate-holders

Human Rights Council, 4 October 2006

This statement is made on behalf of:

Mr Philip Alston, Special Rapporteur on extrajudicial, summary or arbitrary executions;

Mr Paul Hunt, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

Mr Walter Kälin, Representative of the Secretary-General on the human rights of internally displaced persons; and

Mr Miloon Kothari, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living.

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Mr President, distinguished delegates,

The conflict that erupted in Lebanon and Israel in July and August 2006 is inevitably seen by many as a test case of the ability of the Human Rights Council to respond promptly, systematically and constructively in carrying out its mandate to "address situations of violations of human rights . . . and make recommendations thereon". (GA Res. 60/251).

The joint report we are presenting today (doc. A/HRC/2/7) reflects the carefully considered views of four experts. Our concerns began as individual initiatives; we took into account suggestions made by the President of the Council, and we adjusted our focus in light of the resolution (res. S-2/1 establishing an international Commission of Inquiry into Israeli violations in Lebanon) adopted by the second Special Session of the Council. We received full cooperation from the Governments of Lebanon and Israel. In addition to high-level government meetings, we consulted widely with civil society and other key actors.

The Approach Adopted

Five important aspects of our report should be noted at the outset:

First, in dealing with the armed conflict, we apply both human rights and international humanitarian norms, and consider them to be complementary to one another.

Second, economic, social and cultural rights are of central importance to the overall analysis. And, because of the nature of our individual mandates, issues concerning

internally displaced persons and the human rights to housing and health are accorded particular importance.

Third, our report examines the situation in both Lebanon and Israel, and its principal focus is on the protection of the civilian population, both during and after the conflict.

Fourth, the report specifically addresses the role played by a non-state actor, Hizbollah, and addresses recommendations to it. While Hizbollah has a military dimension, it also plays a key role in the political, religious, social and economic lives of the communities in which it is present. In our report we thus see no option but to reflect the actual situation on the ground, in which Hizbollah is a central actor. This in no way implies equivalence between the States concerned and this non-state actor.

Finally, our capacity to undertake original, in-depth, fact-finding was inevitably limited by the size of the mission, its urgency and our commitment to reporting in a timely fashion. Our report is the beginning, rather than the end, of a process designed to ensure accountability for violations of international legal obligations and to promote respect for human rights in the post-conflict and recovery phase. Follow up to review the response to our recommendations will therefore be essential.

Some Facts

Mere facts cannot capture the terrible human consequences of this conflict, nor the magnitude of the human rights violations that resulted. Nonetheless, some facts are a necessary starting point.

In Lebanon, following a Hezbollah incursion which killed eight soldiers and led to the kidnapping of two others, Israel's Air Force attacked more than 7,000 targets in Lebanon, its Navy conducted 2,500 bombardments, and its Army fired tens of thousands of shells and rockets. Lebanon was bombed in the south, in Beirut and elsewhere including the Bekaa Valley. As a result, 1,191 people were killed and 4,405 wounded. One third of the dead and wounded, and close to half of the IDPs (internally displaced persons), were children. Estimates of how many of those killed were Hezbollah fighters vary widely.

Tens of thousands of homes and much public infrastructure were damaged or destroyed. An estimated 1 million persons were displaced. In the suburbs (*Dahiye*) of Beirut alone, bombs destroyed 150 apartment buildings and damaged another 150, leaving between 30,000 and 60,000 persons homeless. In the south entire villages were virtually destroyed. Close to 30% of the Lebanese population were displaced due to the conflict. Even today, 200,000 people have been unable to return to their homes.

In Israel, Hezbollah fired up to 4,500 rockets affecting large areas of the northern third of Israel. 900 of those rockets hit built-up areas. As a result 43 civilians, one third of whom were Arab Israelis, were killed. Seven children were among them. 75 civilians were seriously injured, and hundreds of others wounded.

Official Israeli figures indicate 12,000 buildings were damaged and 300,000 individuals fled south. Of those who remained, hundreds of thousands sought refuge, for at least some time, in bomb shelters.

Beyond these figures, the report notes that in Lebanon 12 medical facilities were destroyed and 38 severely damaged. Ambulances and medical convoys were attacked, and Lebanese Red Cross workers killed and injured. In the south, those who remained, including the elderly and disabled, were cut off for some weeks from elementary health care, water and sanitation. Even today, unsafe and high-density housing conditions, inadequate access to water, sanitation and electricity and unremoved rubble from the destruction remain pressing problems. In a country where health care coverage was already unsatisfactory, pre-existing inequalities have been deepened.

In Israel, many people spent entire days in overcrowded, unhygienic shelters, and had very limited access to medical services. Four hospitals were damaged and the patients from one psychiatric hospital were evacuated to central Israel.

Arab citizens of Israel are reported to have received significantly less access to health services than their Jewish counterparts, and arrangements to compensate them for housing and other damage resulting from bombing is alleged to have discriminatory dimensions.

In both countries, the conflict has had a profound impact on mental and psychosocial health. Some will suffer from disabling post-traumatic stress disorder for the rest of their lives. In both countries, the health of the poorest and most vulnerable, especially women, children and the elderly, suffered most.

In Lebanon, the consequences of an estimated one million cluster bomblets dropped by Israel remain disastrous. An intolerably high rate of unexploded bomblets, combined with the failure of Israel to provide the information required to facilitate their systematic elimination, has led to 14 deaths since the end of the conflict and made the return of large numbers of civilians unsafe.

Our Main Conclusions

We conclude that serious violations of human rights and humanitarian law were committed by Israel. In many instances, it failed to distinguish between military and civilian objectives; to fully apply the principle of proportionality; and to take all feasible precautions to minimize civilian injury and damage.

For its part, Hezbollah violated humanitarian law in many instances. It did so in some cases by targeting civilian populations and in others by disregarding the principle of distinction.

In addition to the toll of dead and wounded, the consequences of these violations continue to exert great suffering.

Some Principal Recommendations

Our recommendations cannot be read in isolation from the detailed analysis in the report, but we highlight here some of the major recommendations.

We call upon Israel urgently to provide full details of its use of cluster munitions to facilitate the destruction of the unexploded ordnance and to minimize civilian casualties.

While Israel made efforts to vet potential targets for compliance with international humanitarian law, we are unable in the absence of systematic evidence of any type to accept the validity of the claim that every target was a legitimate military objective or that the principles of distinction and proportionality were respected.

Israel should also: (i) investigate allegations of unequal treatment of Arab citizens of Israel, especially in relation to property compensation, access to free medical services, access to warning systems to bomb shelters; (ii) formalize a policy of not intentionally targeting water and power installations during armed conflicts; and (iii) ensure the participation of those affected in reconstruction efforts. The Investigative Committee appointed by Israel to investigate the management of the campaign in Lebanon should consider whether violations of human rights and humanitarian law, as well as war crimes, were committed.

We call upon Lebanon to establish a Ministry of Housing, to ensure a systematic and coordinated approach to the enormous housing problems which exist; to urgently address the needs of the thousands who continue to live in unsafe and high-density housing conditions and to reconsider the extent of its reliance on prefabricated housing units in the reconstruction process. In addition, serious flaws in Lebanon's health system, including the absence of an adequate health information system, and striking inequalities in health care access, should be addressed through the creation of an effective, integrated, responsive, and equitable health system. In housing, health and other reconstruction activities participation of those affected is crucial.

A comprehensive strategy to assist IDPs and returnees is needed. In line with the Guiding Principles on Internal Displacement the strategy should address: (i) access to basic services; (ii) access to livelihoods, in particular in farming areas affected by UXO; (iii) protection in cases of domestic violence; and (iv) access to courts and other conflict resolution mechanisms in the context of property disputes.

We urge Hezbollah to publicly affirm the applicability of international humanitarian law to its activities to renounce the targeting of civilians in all circumstances. It should train its fighters in international humanitarian law, inform them of the possibility of criminal prosecution for serious violations, and take all other necessary measures to ensure future compliance.

The Human Rights Council should, by way of complementing its resolution on Israel's conduct, ensure a thorough investigation of Hezbollah's attacks. This should include consideration of whether its use of rockets loaded with lethal anti-personnel ball bearings fired towards heavily populated civilian areas constitutes a war crime, and whether it violated rules prohibiting the use of human shields.

The Council should also call for urgent international action to ban cluster munitions under international law.

In our view, *the international Commission of Inquiry* should examine whether Israeli attacks were always directed against legitimate military objectives and respected the principle of proportionality; and whether reported attacks against fleeing civilians, ambulances and health facilities, large-scale displacement and the destruction of housing and property amounted to war crimes. Israeli use of cluster munitions should also be investigated to ascertain whether they indicate an intention to inhibit and prevent the return of civilians and a reckless disregard for predictable civilian casualties.

Finally, *the international community* should ensure adequate support for Lebanese reconstruction activities, including in the health and housing sectors, significantly increase funding for the destruction of unexploded ordnance, and give priority attention to efforts to address the mental and psychosocial health impacts of the conflict in both countries.

In conclusion, Mr President, this conflict was a tragedy with grave consequences flowing from a series of violations of human rights and humanitarian law. The challenge is to rapidly restore the human rights of those women, men and children who have suffered terribly. In the name of human rights this Council must act - to avoid a repetition, to ensure accountability, and to encourage rehabilitation and reconstruction.