

**Statement by Archbishop Desmond Tutu, Leader of the High Level Fact-Finding Mission
into events at Beit Hanoun on 8 November 2006
Press Conference, Gaza, 29 May 2008**

We were appointed by the Human Rights Council as a fact-finding mission to investigate the attack on November 8 2006 in Beit Hanoun which left 19 people dead. We have a three point mandate: the assessment of the situation of victims, addressing the needs of survivors and to make recommendations on ways and means to protect Palestinian civilians against any further Israeli assaults. The mission returns to Geneva tomorrow and we will be reporting to the Human Rights Council at its session in September, so these are impressions on our part for it is to the Council first that we are obliged to present our report.

We have tried three times in 18 months to secure the cooperation of the Israeli Government to no avail, and in the end we were forced to come to Gaza through Egypt.

We want to begin by thanking the Government of Egypt for their facilitation of our mission. We also want to thank all of the United Nations personnel for their logistical support. We want to say thank you also to the UN in Egypt and to the Secretariat of the High Commissioner for Human Rights for their efficient and friendly help, as well as to the interpreters who have assisted us. We want to thank all the people we have met here in Gaza, members of NGOs, but especially the survivors and victims of the attack itself. I also want to express my deep appreciation to Professor Christine Chinkin, my co-expert on this mission.

All we had heard about the conditions in Gaza - the deprivation, the sense of despair, the lack of economic activity – had not prepared us for the stark reality we saw. We saw a forlorn, deserted, desolate and eerie place. Hardly any pedestrians as would be the case in a more normal setting. We were struck particularly by the absence of the sounds of children shrieking and playing. Usually, when there is a convoy in a normal situation, children will rush out to wave, to be funny and to laugh. We saw none of this. There was no hustle and bustle as in a normal urban setting. There are hardly any vehicles on the road because of the scarcity of fuel. We saw more donkey- and horse-drawn carts.

We are in a state of shock, exacerbated by what we subsequently heard from the victims and survivors of the Beit Hanoun massacre. For us, the entire situation is abominable. We believe that ordinary Israeli citizens would not support this blockade, this siege if they knew what it meant for ordinary people like themselves. No, they would not support a policy which limits fuel supplies or automatically cuts off the electricity supply. They would not support a policy which jeopardizes the lives of ordinary men and women in hospital, that cuts off water and food from hospitals jeopardizing the lives of babies. No, they would not support a policy that results in what happened in Beit Hanoun on 8 November 2006, when a mother scooped up the brains of her baby lying with its skull cracked open by an Israeli shell, the same mother rushing out into the street to find her son staring at his bowels hanging out and then seeing him scoop them up and shove them back into his abdomen. No, they would not.

As a matter of principle, Professor Chinkin and I wanted to go to Israel to hear directly from the Israeli authorities their version of the events. We wanted to meet any other interested parties and NGOs. But we also wanted to go to Sderot to meet with victims and survivors of the Qassam rockets. We care about all people. That is why we told Mr Hanijeh that the firing of those rockets is a gross violation of human rights, and asked for them to stop the firing.

We are the descendents of Abraham: Jews, Christians and Muslims. We revere the teaching of scripture. And so we call on Israel to end the siege, the blockade.

Why?

First, because it is a gross violation of human rights. In terms of the scripture that Jews and Christians alike invoke, the blockade is contrary to the teaching of those scriptures. Those scriptures speak about a God: a God of the Exodus, a God notoriously biased in favour of the weak, of the oppressed, of the suffering, of the orphan, of the widow, of the alien. And this God will not be mocked! The God who sided with the slaves against the Pharaoh, the God who sided with Naboth against King Ahab, who sided with Bathsheba's husband against King David. The God who came down to deliver the Israelites from their bondage, who was not deaf to their cries, not blind to their plight, who knew their suffering, is the same yesterday, today and forever!

The siege is contrary to the Jewish tradition of siding with the oppressed. In South Africa, the most outstanding stalwarts in our fight against apartheid were often Jews. People like Helen Suzman, people like Joe Slovo. Almost instinctively, Jews must be on the side of freedom, justice and peace.

The siege must stop because it is not in the interests of Israelis. There can be no justice, no peace, no stability, not for Israel, not for the Palestinians, without accountability for human rights violations. This includes accountability for the human rights violations which occurred in Beit Hanoun on 8 November 2006. Israel has admitted that it made a mistake, but this falls far short of accountability and due redress for victims and their families. Accountability applies also to those firing rockets into civilian areas of Israel. The culture of impunity on both sides must end! True security and peace will not come from the barrel of a gun. It will come through negotiation: negotiation not with your friends. Peace can come only when enemies sit down and talk. It happened in South Africa. It happened more recently in Northern Ireland. It will happen here too.

Please, please, Israelis and Palestinians: for the sake of your children, for the sake of your future, for your sake, for God's sake, for all our sakes. Please, please end the injustice and sit down and talk to one another. It is possible for Israelis and Palestinians to live amicably side by side in two sovereign, viable states.

There can be no peace, there can be no security, there can be no freedom in isolation. Israelis and Palestinians will be free, will be secure, will prosper only together.

My message to the international community is that our silence and complicity – especially on the situation in Gaza - shames us all. It is almost like the behaviour of the military junta in Burma. Gaza needs the engagement of the outside world, especially of its peacemakers.

Finally, to you our brothers and sisters in Gaza: you will be free. Your isolation and loneliness will end. We want you to know that we are with you, and we will come back to celebrate with you your freedom!

Press questions and the answers of the experts during the press conference

Q: To Professor Chinkin, do you consider what happened here as war crimes or crimes against humanity?

Professor Chinkin: I think what we've seen shows plenty of evidence of at least the possibility of war crimes that needs much fuller, further, independent investigation, but I would certainly say that the concept of collective punishment in a situation of occupation constitutes the notion of a war crime and possibly of a crime against humanity. In addition, there are the issues of war crimes around armed incursions against civilians which are disproportionate to any notion of military targets and those are on both sides: the rockets from Gaza into Israel and Israeli incursions such as those into Beit Hanoun, and violations of human rights, notably the right to life, freedom of movement and denial of the right to health, denial of an adequate standard of living, and the denial of the procedural due process aspects of independent investigation of those substantive rights.

Q: Father, you talk of a massacre, do you think a mother that has lost her son can forgive or forget what happened? What is the next step?

Archbishop Tutu: It would be absolutely unnatural to expect a mother, or anyone else, to forget. We should never say to anyone forget and forgive, no. Remember, but not in order to retaliate. We cannot demand of anyone, least of all a mother, that she should forgive. But you know, human nature is incredible! We were amazed at some of the things we experienced in South Africa in the Truth and Reconciliation Commission. You would be surprised. In meeting the people here, I think one of the things that humbled us was how unbitter they were. They could laugh. They were just crying: "what have we done for this to happen to us?"

Professor Chinkin: You asked about next steps. International law increasingly recognizes the obligations of redress and reparation, and these can come in a number of ways. One important next step would be acknowledgement by the perpetrators, and by the international community, as the Archbishop has just said. Acknowledgement followed by apology, followed by reparations of the appropriate sort.

Q: I would like to hear a little more from Archbishop Tutu. He spoke for 25 minutes but only one minute on the massacre of Beit Hanoun. When he spoke about the handmade missiles from Gaza, I felt he was talking about intercontinental missiles and it was as if Palestinian tanks were at the gates of Tel Aviv. Why did it take you 18 months to come here? Why did not you not come to begin which through Egypt? Do you think what happened here was an error or a crime?

Archbishop Tutu: Why I spoke for so long was to say that this particular incident is something symptomatic of a greater cause, and the cause is the occupation. In fact the rockets and the incursions would not happen if there was no occupation. On the event itself, we were told things we were not away of. We thought that only one rocket, perhaps two had been fired. We

discovered that there were as many as 15. So it could have been an error if it were just one, but one could also come to a different conclusion taking into account all the circumstances. I pass onto my legal expert, Professor Chinkin.

Professor Chinkin: I can't tell you precisely at this moment, we need to give it a great deal of attention as we write our report, but something can be a mistake and a crime. If you drive your car, make a mistake and kill someone, you may well still have committed the crime of reckless driving. We need to look very fully at the facts and the legal application of those facts. But it is not either-or.

Q: Israel has admitted that what happened in 2006 was a mistake. Are you hoping that Israel will be open to an investigation, how do you expect the Israelis to cooperate if they have denied you entry?

Archbishop Tutu: We are people of hope. You go on making your appeal, in the expectation that one day the one to whom you are appealing will hear, and show that we will not give up hope.

Q: You needed 18 months to come to Gaza to investigate the massacre of the Athamna family. How much time will the UN need to send a committee to investigate the siege and how long will the siege last?

Archbishop Tutu: Let me try to point out to you that if we had not considered this an important event, we would have abandoned it right from the beginning when the Israelis were not cooperating. It is precisely because we consider this to be such an important thing that had happened to our sisters and brothers here, that both of us persisted. We said: "we want to go, but we want to go in such a way that we will not be accused *ab initio* of being biased". I am not a member of the Council. Professor Chinkin is not a member of the Council. I was appointed because I am me. She was appointed because she is she. We would hope that the United Nations would be able to take action, but do know that I have my own integrity. Professor Chinkin has her integrity, and I am not going to impugn my integrity. She will not impugn her integrity for anything.

Professor Chinkin: I would only add that within the UN there are other people as well of high integrity who are also taking on mandates with respect to the occupied Territories. The Special Rapporteur, John Dugard, for many many years has been giving strong messages to the relevant UN bodies. If enough voices of integrity keep saying these messages, as Archbishop said, surely they will be heard eventually.

Q: What are the tools you are using to investigate with? If the attack was military, is one of the members of the mission a military expert? Have you found new evidence? You say this needs and independent investigation, but aren't you an independent mission?

Professor Chinkin: To the last part, yes we are an independent mission. We are not a military commission. We are aware there are unanswered questions, we will have to continue asking them. I am a lawyer, and so my primary focus of analysis will be through international law. We

have certainly heard new evidence from a number of people that will feed into the factual analysis upon which the legal analysis will rest.

Archbishop Tutu: We need to ask military experts some questions, including: when you fire a rocket by mistake, is it a repeatable mistake? We don't know. Yesterday it was quite clear that we need to hear from military and ballistics people who would be able to tell us whether once you start firing it is only one shell that you fire.