

OPENING STATEMENT OF AVROM KRENGEL (CHAIRMAN OF THE SOUTH AFRICAN ZIONIST FEDERATION) DELIVERED IN A MEETING BETWEEN THE SAZF AND JUDGE RICHARD GOLDSTONE

In the past three weeks the Jewish people have commemorated two of the most important events in their 4 000 year history. On the 11th of April we commemorated Yom Hashoah. This is the day that we remember the 6 million Jews of Europe who were murdered by the Nazi's during the 2nd World War. We also remember the 6 years preceding the war, when not a single nation was prepared to provide a safe haven to the Jews wishing to flee from Nazi tyranny. A week after Holocaust Remembrance Day we celebrated one of our most joyous occasions, the establishment of the State of Israel in 1948.

Sixty five years after the liberation of Auschwitz and 62 years since Israel's independence, Jews throughout the world live lives of unprecedented freedom, dignity and security. The vast majority of Jewry attribute this remarkable transition to the existence of the State of Israel. After 2 000 years, Jews finally have a refuge to where they may flee in times of trouble, and a country that will always protect and defend them, whether they are suffering persecution under Communist Russia or are being held hostage in Entebbe, Uganda.

While Diaspora Jewry enjoys all the benefits that the State of Israel bestows on us, it is only the citizens of Israel that bear the burden and make the ultimate sacrifice in order to ensure the continued existence of Israel. Hence, Diaspora Jewry feel a deep sense of gratitude towards and solidarity with Israel and its citizens. We recognise however, that in Israel's continuous fight for survival, it is not exempt from any international law or rules of warfare which apply to every nation.

The South African Zionist Federation is an organisation established 112 years ago to allow South African Jewry to assist in the creation of a Jewish homeland. Today, it is the organisation which represents the South African Jewish community in matters relating to Israel. Every Jewish Organisation in South Africa which supports Israel in some form or another is an affiliate of the Federation and their members span the entire spectrum of our community. The functions and events organised by the Federation in honour of Israel are by far the largest gatherings of South African Jewry.

It is in my capacity as the Chairman of this organisation that I address you today, to express our deep disappointment and dissatisfaction, with your involvement, as a South African Jew, in leading the United Nations Fact Finding Mission on the Gaza conflict.

The United Nations Human Rights Council, which established your Fact Finding Mission, is notorious for its bias against Israel. Since its creation in 2006, the UNHRC has devoted 27 of its 33 censures to one sided and unconstructive resolutions criticising Israel. In the past 12

months it has passed resolutions praising Sri Lanka after it killed an estimated 20 000 civilians in its struggle against the Tamil Tigers and congratulated Sudan for its “progress” while never in the past having condemned Sudan for its atrocities committed in Darfur.

The enabling resolution of the UNHRC upon which your mission was established, stated that the designated purpose of your mission was “to investigate all violations of international human rights law and international humanitarian law by the occupying Power, Israel, against the Palestinian people throughout the Occupied Palestinian Territory, particularly in occupied Gaza Strip, due to the current aggression.” As a result of this one sided resolution and the fact that most democracies in the UNHRC had either abstained or voted against it, the UNHRC battled to find anyone with the necessary profile to lead its mission. Persons such as Mary Robinson, former president of Ireland and convenor of the United Nations Conference Against Racism in Durban, refused to accept the appointment.

It would appear that you were convinced to become the head of the mission pursuant to discussions held between yourself and the President of the UNHRC whereby he gave you permission to investigate international law and human rights violations carried out by all parties involved in the Gaza conflict. It is important to note that your mission of enquiry into the Gaza conflict, where approximately 1 000 civilians were killed, is unprecedented. As far as I am aware, never before has the UNHRC, nor any other organ of the United Nations conducted an investigation of human rights violations into conflicts which do not involve massacres, genocide or crimes against humanity such as organised and systematic mass rapes, the cutting off of limbs of civilians and the use of child soldiers. There has never been an investigation into Russia’s wars in Chechnya which have caused over 200 000 civilian casualties, nor has there been an investigation into America’s invasion of Iraq which resulted in over 100 000 civilian deaths and as previously stated, Sri-Lanka’s killing of 20 000 civilians in 2009 alone, led to a congratulatory resolution being passed by the very same UNHRC.

The other 3 members of your mission consisted of an advocate from Pakistan, an English academic who had already signed a petition accusing Israel of war crimes prior to joining the mission and a colonel in an army that has never fought a war never mind an asymmetrical one.

With regard to the actual contents of the mission’s report, one would have hoped that your involvement would have ensured that a principle I once heard best described by a veteran corporate lawyer would have applied, namely “what is sauce for the goose is sauce for the gander”. In other words, Israel is treated no differently from Hamas. While simple Jews such as ourselves living at the tip of Africa are unable to second guess you as to the reliability of witnesses you heard or the evidence and information which you received or did not receive, there are however certain aspects of this report which even we can

understand are highly prejudicial to Israel, while being extremely favourable towards Hamas. For the sake of brevity during this opening statement I shall only highlight 2 of these glaring disparities in the way the parties have been treated by your mission.

Your report never misses an opportunity to mention that Israel refused to co-operate with the mission. The underlying message is clear, Israel is to blame for any harsh findings made by your mission against it. If it wished to provide the true facts that would have changed your mind, it was welcome to do so, but refused.

Your approach to Hamas however, is entirely different. On page 6 of the report you state that during your visits to the Gaza Strip, the mission held meetings with senior members of the Gaza authorities and they extended their full co-operation and support to the Mission. In a footnote on page 40 of the report you state that the term "Gaza authorities" is used to refer to the de facto Hamas-lead authorities established in Gaza since June 2007. It is therefore clear that you wish the reader of the report to believe that Hamas co-operated fully with your mission and therefore no adverse findings against it can be made as a result of their non co-operation.

Later on in your report however, an entirely different picture emerges. On page 134 you state "the mission also addressed questions regarding the tactics used by Palestinian armed groups to the Gaza authorities. They responded they had nothing to do, directly or indirectly, with the Al-Qassam brigades or other armed groups and had no knowledge of their tactics. To gather first hand information on the matter, the mission requested a meeting with representatives of the armed groups. However, the groups were not agreeable to such a meeting". Later, on page 151, you state the following "the mission asked the Gaza Authorities to provide information on the sites from where the Palestinian armed groups had launched attacks against Israel and against the Israeli armed forces in Gaza. The mission similarly asked whether, to their knowledge, civilian buildings and mosques had been used to store weapons. In their response, the Gaza authorities stated they had no information on the activities of the Palestinian armed groups or about the storage weapons in mosques and buildings". Finally, on page 134 it is recorded that the mission notes that those interviewed in Gaza appeared reluctant to speak about the presence of or conduct of hostilities by the Palestinian armed groups. Whatever the reasons for their reluctance, the mission does not discount that the interviewee's reluctance may have stemmed from a fear of reprisals.

In other words, based upon the mission's own version, absolutely no-one in Gaza, neither the civilian population, nor any armed group, nor the Gaza Authorities were prepared to co-operate in any way in respect of the way Hamas and others conducted their armed operations during the conflict. The question to be asked is why is it stated on page 6 that the mission received full co-operation from the Gaza authorities, when it is patently clear

that it did not. Secondly why did you not make a negative inference from such refusal to co-operate, in the same manner which you did towards the Israelis. On page 151 of the report you actually state that if the Gaza Authorities failed to take the necessary measures to prevent the Palestinian armed groups from endangering the civilian population by conducting hostilities in a manner incompatible with international humanitarian law, they would bear responsibility for the damage done to the civilians living in Gaza. There is an important line missing after that observation which is inserted in almost every section dealing with alleged Israeli atrocities. The missing sentence should simply have stated that the refusal of the Gaza Authorities to co-operate with the mission on this issue, while fully co-operating in respect of all other requests made by the mission, forces the mission to conclude that Hamas did in fact act in a manner which would lead them to bear responsibility for the damage done to the civilians living in Gaza.

The second example of the different treatment afforded to Israel and Hamas is the manner in which you expanded your mandate to allow the report to provide a complete context for the reasons the conflict in Gaza had occurred. With regard to the Israelis, over 100 pages of your report are devoted to giving the reader a history of every actual and alleged human rights violation Israel has committed in what you term “the Occupied Palestinian Territories”, since 1967. One can only presume that this endless list of Israel’s “violations” is designed to provide the report’s readers with an understanding as to why Hamas and the “other Palestinian armed groups” resorted to rocket fire into Southern Israel and the capture of the Israeli soldier Gilad Shalit.

In respect of Israel however, no such contextualisation of its actions is provided in any meaningful manner. Nowhere in your 573 page report do you feel it is of value “for contextual purposes” to mention that Hamas’ founding charter calls for the destruction of the State of Israel. Furthermore, you failed to disclose that the very reason for Israel’s and Egypt’s blockade of Gaza and the sanctions imposed upon Hamas by the US and the EU is a direct result of Hamas’ refusal to abandon its primary aim of destroying Israel. Notwithstanding the report’s claim that it supports a peaceful two state solution between Israel and the Palestinians, you fail to mention that Hamas is an implacable enemy of such a solution. In fact, at the height of the Oslo Peace Accords in the mid to late 1990’s, Hamas waged a merciless suicide bombing and terror campaign against Israel, resulting in 150 Israeli civilian deaths, specifically aimed at the derailing of such peace negotiations. You fail to disclose that Hamas killed over 500 Israeli civilians in suicide bombings committed during the years 2000 to 2009. You fail to disclose that the introduction by Hamas of suicide bombing into the Middle East has caused the death of tens of thousands of Muslims in the region. You fail to disclose that Hamas is armed, supported and supplied by Iran, a country whose president has on numerous public occasions stated its desire to destroy the State of Israel and is suspected of developing nuclear weapons perhaps for this very purpose.

Finally you failed to disclose that Iran has stated that in any war which it wages with Israel, Hamas would be expected to open a second front against Israel during what will be a war for Israel's existential existence.

In summary, your mission and its report is, in the words of Canada's famous jurist and human rights lawyer Professor Irwin Cotler "tainted to the core". Without your credentials as a Jew and pre-eminent Human Rights Jurist this report would have lacked all credibility and would have failed to gain any traction. Your involvement in this mission and report has led to potentially devastating consequences for Israel and the Jewish people.

Based upon the circumstances surrounding the establishment of your mission and the contents of the Report itself, it now appears that the world has two sets of international law, one to be applied to Israel the other to everyone else. While Israeli soldiers, generals and politicians face the prospect of war crime trials at the Hague, a fate formerly reserved for persons who were involved in such atrocities as the genocide of 300 000 Darfurians and 1 million Tutsis, the soldiers, generals and politicians of Russia, United States, Nato and Sri Lanka, who are collectively responsible for the death of over 320 000 civilians during the past 15 years of armed conflicts, will continue to be able to act with impunity and immunity. Your request that countries prosecute Israeli soldiers under Universal Jurisdiction Principles will prevent thousands of Jews from visiting their parents and grandparents in certain countries and force their absence from family celebrations.

Judge Goldstone, this situation which I have described, is not International justice. It is simply a travesty of justice, a reintroduction of discriminatory laws and practices against the Jewish People.

In your letter addressed to Rabbi Goldstein in the Business Day dated 22nd April, you admonished him, as a fellow Jew, for not "reaching out to your family". As a South African Jewish Community, and as a fellow Jew, we admonish you for spending 14 days in the Gaza Strip, listening to the testimony of hundreds of Gazan residents, publicly thanking them for their warm welcome and hospitality, while failing to reach out to Corporal Gilad Shalit who has languished for 4 years in a hellhole which may have been situated only a few blocks from where you were enjoying your Gazan hospitality. In exchange for bestowing your prestige and credibility on the testimony of the Palestinian victims of this conflict, we think it would have been only appropriate of you to demand of Hamas the unconditional release of Gilad Shalit or failing that to demand that they recognise his status as a prisoner of war and failing even that, to at least insist that you personally visit him to allow him to tell you first hand of his story of suffering and isolation, in the same manner that you did for all the inhabitants of Gaza."

As a member of the Jewish community, we ask you to reach out to us and understand our pain and anger at what you have done and to work with us in ensuring that Israel is not treated in a manner different to any other nation.

In conclusion, while we are extremely unhappy with your involvement in drafting the Goldstone report, we nevertheless laud your desire to minimize casualties in any armed conflict and encourage you to develop a standard set of rules of engagement which shall apply to all nations in any conflict. We urge you to work with your fellow jurists and the United Nations to create a mechanism whereby if in any conflict a certain amount of civilian casualties are incurred, there is automatically an impartial and objective investigation into the circumstances which led to those civilians being killed. If you are able to establish such mechanisms and rules for every nation of the world, we would support you whole heartedly in encouraging Israel to participate in such investigations, which would be no different to those applying to Russia, America, Sri Lanka, Nato and any other nation which is involved in an armed conflict.