

A Joint Appeal from Civil Society: The International Community Must Act Now to End Impunity for War Crimes in Israel and Palestine

12 September, 2010

Your Excellency,

As civil society organisations, unified under a common purpose of ensuring respect for international humanitarian law and redress for victims of war crimes in Israel and Palestine, we would like to draw your attention to the forthcoming dealing with domestic investigations of war crimes in accordance with several UN resolutions which will be occurring at the United Nations Human Rights Council (13 September – 1 October, 2010).

Israeli, Palestinian and international civil society organisations have been closely monitoring the domestic investigations by Israel and Palestinian actors initiated with respect to allegations of war crimes committed during Israel's offensive against the Gaza strip (Operation Cast Lead) that occurred 12/2008-01/2009, as required by several UN Human Rights Council (HRC) and General Assembly (GA) resolutions.¹ The extensive factual evidence gathered by these organizations clearly demonstrates that these domestic investigations and prosecutions have not conformed to international standards of justice, and lack basic requirements of independence, transparency, impartiality and/or effectiveness.

In accordance with the recommendations of the report of the UN Fact Finding Mission on the Gaza Conflict, the date by which parties to the conflict should have concluded domestic investigations in conformity with international standards expired six months ago in March 2010. The General Assembly has given the parties until July 2010 to conclude these investigations. Despite the passing of these deadlines, alleged violations reported by the Fact-Finding Mission have still not been adequately investigated or addressed by any party to the conflict.

We, the undersigned NGOs, believe that 20 months after Operation Cast Lead, sufficient time has been granted to the parties to the conflict to demonstrate a willingness and/or ability to carry out investigations into alleged war crimes according to international standards.

In response to the unequivocal failure of all parties to the conflict to conduct effective investigations and prosecutions, thus violating UN Human Rights Council and GA Resolutions, as well as customary international humanitarian law obligations, it is now imperative that urgent recourse be made to mechanisms of international justice.

It is in this context that we write to urge your country to recognize that the time has come to fight persistent and long standing impunity for war crimes committed in Israel and the Occupied Palestinian Territory (OPT) through international mechanisms of justice and accountability, including criminal proceedings. We call on you to seize this historic opportunity to take concrete action to ensure the implementation of recommendations made by the Fact Finding Missions on Gaza and the UN resolutions cited above. We firmly believe failure to do so will only entrench the conflict by convincing the perpetrators of war crimes in Israel and the OPT that impunity for such acts will continue indefinitely.

We therefore call on all member states of the United Nations, in particular member states of the HRC in a resolution at the 15th Session of the HRC to:

1. Acknowledge and condemn the failure of all responsible parties to comply with their obligation to carry out genuine investigations in accordance with Resolutions of the HRC and GA, and the consequent need for the international community, including all relevant UN bodies, to take action to uphold victims' rights, and ultimately to promote respect for the rule of international law through all tools available to the international community;
2. Recommend that the UN General Assembly urge the UN Security Council, acting under Chapter VII of the UN Charter, to refer the situation in Israel and the Occupied Palestinian Territory to the International Criminal Court (ICC) and request that individual ICC States Parties refer the situation in Israel and Palestine to the Prosecutor, in accordance with Article 14 of the ICC Statute, and in the interests of international peace and security;
3. Request that High Contracting Parties to the Geneva Conventions of 1949 comply with their legal obligation to investigate and prosecute all suspected grave breaches of the Conventions, including through the exercise of universal jurisdiction.

Sincerely yours,

¹ A/HRC/Res/S-12/1, A/HRC/RES/13/9, A/Res/64/10 and A/Res/64/254

1. Acsur Las Segovias – Spain
2. Al Haq – Palestine
3. Asian Forum for Human Rights and Development (FORUM-ASIA)
4. Asian Legal Resource Centre (ALRC)
5. BADIL Resource Center for Palestinian Residency and Refuge – Palestine
6. Boye-Elbal y Asociados – Spain
7. Broederlijk Delen – Belgium
8. Cairo Institute for Human Rights Studies (CIHRS)
9. Centro de Estudios Legales y Sociales (CELS) – Argentina
10. Coalition of Women for Peace – Israel
11. Danish United Nations Association
12. Diakonia Sweden
13. Egyptian Initiative for Personal Rights (EIPR)
14. Euro-Mediterranean Human Rights Network (EMHRN)
15. European Jews for a Just Peace (EJJP) – Netherlands
16. Italian Peace Association
17. International Federation for Human Rights (FIDH)
18. L'action des chrétiens pour l'abolition de la torture (ACAT) – France
19. MS Action Aid Denmark
20. Palestinian Centre for Human Rights (PCHR) – Palestine
21. Public Committee Against Torture in Israel (PCATI)
22. Quaker Council for European Affairs – Belgium
23. Rehabilitation and Research Centre for Torture Victims (RCT) – Denmark