

PRESS RELEASE

OPEN LETTER TO THE MEMBERS OF THE UNITED NATIONS SECURITY COUNCIL

New York, Geneva, Brussels – September 28, 2009

Re: Peace and Justice Are Indivisible: The UN Security Council Bears the Primary Responsibility to Enforce the Goldstone Report's Recommendations, in the Interest of all Israelis and Palestinians

Your Excellencies,

The International Federation for Human Rights (FIDH), federating 155 human rights organizations in more than 100 countries, firmly reiterates its support to the fact-finding mission Report's recommendation on the Gaza conflict, which will be presented tomorrow before the United Nations Human Rights Council in Geneva, and urges the UN Security Council to consider all of the Report's recommendations with the objectivity and impartiality that is reflected in it, and to stand firm on the need for accountability as a way to promote peace in the region.

The Report on Operation Cast Lead conducted by the Israeli army in the Occupied Gaza Strip from 27 December 2008 to 17 January 2009 during which 1,400 Palestinians were killed, including some 300 children and hundreds of other unarmed civilians, provides detailed and solid evidence that serious violations of international humanitarian and human rights law, such as war crimes and crimes against humanity, had been committed by both Israelis and Palestinians. The UN Security Council is called upon by the Report's Mission to duly follow-up on a series of recommendations.

As the Report's findings and recommendations is regarded by many as extremely politically sensitive, FIDH feels it is crucial that the following points be stressed and seriously considered, so that the rule of law, accountability, and ultimately peace, are not sacrificed to avoid political or diplomatic discomfort.

The Mission's Legitimate Scope of Mandate and Credible Composition

The Mission's members all had unquestionable credentials that guaranteed the mission would be carried out with the necessary objectivity and without bias, and was headed by world renowned South African Constitutional Court Justice Richard Goldstone, former chief prosecutor of the United Nations International Criminal Tribunals for the former Yugoslavia and for Rwanda. While the Mission initially received a limited mandate from the Human Rights Council, the Mission's members determined, in the name of fairness and objectivity of the law, that the Mission ought to and would "*consider any actions taken by all parties that might have constituted violations of international human rights law or international humanitarian law.*" As a result, allegations made **on all sides** of grave breaches of the Geneva Conventions and other serious human rights violations that took place during the conflict were investigated by the Mission, which was directly reflected in the recommendations.

The Report Upholds Respect for International Humanitarian Law – the Heart of the United Nations' Body of Law

It is important to recall that the Mission's members did limit their investigation to violations of human rights and *jus in bello*, i.e. the law of armed conflict according to international humanitarian law, and did not consider *jus ad bellum*, or in other words, the legal justifications for the conflict, which carry a much more political weight. Under the universally accepted provisions of the Geneva Conventions, independently of the justifications of a war, there is a body of rules that cannot, under any circumstances, be violated in the conduct of an armed conflict. The Goldstone Report rightfully stressed that humanitarian law's fundamental principle is for all belligerents to duly distinguish between civilians and combatants when carrying attacks. Investigating

compliance with this principle cannot be regarded as a political task – it is in fact a matter of law.

The Report's Recommendations Reflect the Legal Consequences of Violations of the Laws of Armed Conflict – Rejecting Them Suggests an Unacceptable Double Standard

In light of the findings of the investigation – which include war crimes and crimes against humanity – the set of conclusions reached by the Report could not have been any different if one is to abide by international law principles accepted and implemented for many decades now by the United Nations.

In fact, international law requires that states investigate serious human rights violations that are committed by bodies or persons acting on their behalf and prosecute those responsible. The Report therefore requests that both the Government of Israel and the relevant Palestinian Authorities in the Gaza strip commit to launch independent, impartial and transparent domestic investigations and prosecutions within six months, and that the Security Council monitor developments at this level by establishing without delay an independent committee of experts in international humanitarian and human rights law. Should the parties to the conflict fail in their obligation, then it is necessary to resort to international justice mechanisms that will ensure the process of accountability, through a referral by the UN Security Council to the International Criminal Court (ICC). The ICC is indeed the judicial body that is ultimately responsible for addressing such violations when the countries that bear primary jurisdiction are either unwilling or unable to provide justice.

The UN Security Council itself has accepted and enforced these principles, at various stages and in various ways, as it did with Sudan. Refusing to enforce them with regards to the Israeli / Palestinian conflict suggests an unacceptable double standard. It would also directly undermine the legitimacy of international law and of international justice, and therefore of the work that has been pushed forward by the Security Council in this regard on other country situations.

Peace and Justice Are Indivisible: Accountability Is a Necessary Step to Peace

As UN Secretary General Ban Ki-moon has stressed, "*peace and justice are indivisible.*" There is today no doubt that when grave human rights violations remain unpunished, they continue to be perpetrated, which prevents conflict resolutions. On the other hand, the prosecution of those responsible for serious violations of international humanitarian law directly contributes to ending such violations and to the restoration and maintenance of peace.

For all these reasons, FIDH recalls to all Members of the Security Council that is of utmost importance that the Council does not fail Israelis and Palestinians on this matter. It should endorse the sound recommendations contained in the Goldstone Report, and duly act upon them. Surrendering to the contrary would undermine international law as well as the Security Council's credibility on many other items on its agenda, but most importantly, it would amount to denying a historic chance for justice to contribute to peace in the region.

Sincerely Yours,

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President of FIDH