

Conseil des droits de l'Homme

**ORAL INTERVENTION**

Item 7 - Human rights situation in Palestine and other occupied Arab  
territories

FIDH

Fédération Internationale des Ligues des Droits de l'Homme

## **Gaza/ UN fact-finding mission report.**

The International Federation for Human Rights (FIDH) reiterates its support to the conclusions of the report released by the fact-finding mission mandated by the UN Human Rights Council which, despite the initial mandate it had been given, decided that it was in the interest of all Palestinians and Israelis that allegations of war crimes and serious human rights violations related to the conflict **on all sides** be investigated.

Therefore, and considering the methodology and the conclusions of the report presented to the Council, there is no grounds to deny the report's legitimacy; it must be acknowledged that the fact-finding mission was conducted with professionalism and impartiality.

FIDH believes the Government of Israel, rather than discrediting the Commission's report, should have accepted to fully cooperate with it during the course of the mission.

The report concludes that grave human rights violations amounting to war crimes and crimes against humanity were perpetrated by the Israeli army as well as by some Palestinian armed groups, and stresses the need for accountability. The legal obligation to investigate violations of international human rights and humanitarian law, prosecute if appropriate and try perpetrators is primarily incumbent on domestic authorities and institutions, but if the domestic authorities are unable or unwilling to comply with this obligation, international justice mechanisms must be activated to prevent impunity. As already stated by FIDH and its member organizations in Israel and the Occupied Palestinian territory, the report reaffirms that there is *“little potential for accountability for serious violations of international humanitarian and human rights law through domestic institutions in Israel and even less in Gaza”*.

In this regard, FIDH fully supports the recommendation made by the Commission to the UN Security Council to *“consider the situation and, in the absence of good faith investigations that are independent and in conformity with international standards having been undertaken or being under way within six months....to refer the situation in Gaza to the Prosecutor of the International Criminal Court pursuant to Article 13 (b) of the Statute of the International Criminal Court”*, thus relying on the principle of complementarity.

The report further recommends that *“with reference to the declaration under article 12 (3) received by the Office of the Prosecutor of the ICC from the Government of Palestine, the Mission considers that accountability for victims and the interests of peace and justice in the region require that the legal determination should be made by the Prosecutor as expeditiously as possible”*.

FIDH has constantly reaffirmed that the grave human rights violations should not remain unpunished and those responsible for their perpetration should be prosecuted.

International law requires that every state investigates serious human rights violations that are committed by bodies or persons acting on its behalf and prosecutes those responsible for the violations; therefore FIDH welcomes the request by fact-finding mission that both parties conduct independent, impartial and transparent investigations within 6 months.

Nevertheless, FIDH recalls that if the parties to the conflict fail in their obligation to investigate and prosecute those responsible for the violations, then it is necessary to support the establishment of international justice mechanisms that will ensure the process of accountability, through filing complaints based on the principle of universal jurisdiction and by contributing to the International Criminal Court Office of the Prosecutor's preliminary analyses and investigations, by submitting communications providing information on the crimes perpetrated during Operation Cast Lead.

FIDH fully endorses the view that the prosecution of persons responsible for serious violations of international humanitarian law would contribute to ending such violations, to the protection of civilians and to the restoration and maintenance of peace and calls upon the Human Rights Council to adopt a resolution:

Welcoming the report of the UN fact-finding mission

Endorsing the recommendations contained in the report and engaging necessary actions to implement them in coordination with all the relevant UN bodies.

requesting the UN Secretary General to bring the report to the attention of the Security Council for further action