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**Human rights situation in Palestine and other
occupied Arab territories**

**Joint written statement* submitted by Al-Haq-Law in the
Service of Man, the Al Mezan Centre for Human Rights, the
Badil Resource Center for Palestinian Residency and Refugee
Rights, Defence for Children International, and the
Palestinian Centre for Human Rights, non-governmental
organizations in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2010]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Injustice anywhere is a threat to justice everywhere: A demand for accountability in the Occupied Palestinian Territory**

During the Israeli offensive attack on the Gaza Strip, code-named ‘Operation Cast Lead’, United Nations Secretary-General Ban Ki Moon affirmed in his report to the Security Council that “the civilian population, the fabric of Gaza, the future of the peace process, stability in the region, and goodwill among people throughout the world: all are trapped between the irresponsibility displayed in the indiscriminate rocket attacks by Hamas militants and the disproportionality of the continuing Israeli military operation. All will be further threatened if the conflict continues or escalates to a new phase of deadly violence”.

Following the end of the Israeli offensive, the subsequent lack of accountability for violations of international humanitarian and human rights law committed during the assault has entrapped Palestinian victims in a perpetual justice crisis, wherein those suspected of committing international crimes continue to be shielded by a blanket of pervasive impunity. Absent the rule of law, prospects for peace remain more elusive than ever before.

As Palestinian and Israeli human rights organisations, we welcomed the establishment of the United Nations Fact-Finding Mission and endorsed the entirety of its Report, which recognised the prevailing impunity that has characterised Israel’s illegal policies in the Occupied Palestinian Territory for over four decades. Moreover, the Report outlined a clear set of recommendations aimed at addressing this injustice through the pursuit of accountability.

In our struggle for justice and peace, we also endorsed the Human Rights Council’s establishment of the expert committee mandated “to monitor and assess any domestic, legal or other proceedings undertaken by both the Government of Israel and the Palestinian side, in light of General Assembly resolution 64/254, including the independence, effectiveness, genuineness of these investigations and their conformity with international standards”.

In accordance with international law, the United Nations required that the responsible parties pursue accountability through their domestic legal systems, in an effort to achieve effective legal redress for victims through domestic remedies. However, to-date the United Nations and the international community have been unwilling to take the essential next step – recourse to mechanisms of international criminal justice – in order to ensure that international humanitarian and human rights law are upheld while the responsible parties have proven unwilling and unable to fulfil their obligations.

Almost one year has passed since the release of the Fact-Finding Mission Report and nearly two years have lapsed since Israel commenced its offensive attack on the Gaza Strip. The responsible parties have failed to carry out effective criminal investigations in compliance with international standards. In light of the parties’ failure to comply with their obligations, it is imperative that the United Nations and the international community ensure that

** Addameer Prisoner Support and Human Rights Association, Aldameer Association for Human Rights-Gaza, Arab Association for Human Rights, Ensan Center for Democracy & Human Rights, Gaza Community Mental Health Programme, Jerusalem Legal Aid And Human Rights Center, Physicians for Human Rights – Israel, Ramallah Center for Human Rights Studies, The Civic Coalition for Defending Palestinians’ Rights in Jerusalem, The Public committee against Torture in Israel (PCATI), and International Federation for Human Rights Leagues – FIDH, NGOs without consultative status also share the views expressed in this statement.

suspected international criminals are held accountable through the immediate resort to international mechanisms. Justice must not be delayed any further.

Accountability must be pursued promptly: it is unjustifiable to permit the responsible parties further time to continue inadequate investigation of serious international crimes, while it has been proven that domestic systems are ineffective in delivering justice to victims. By endorsing the recommendations of the Fact-Finding Mission Report, the General Assembly and Human Rights Council also committed to the timelines entailed therein. The Fact-Finding Mission Report did not intend that impunity persist should domestic channels fail to ensure accountability. Its recommendations require the member states of the United Nations to adequately ensure that justice is served, outlining a variety of international legal mechanisms to achieve this goal, including a Chapter VII Security Council referral to the International Criminal Court.

Additionally, we reiterate that all States, in their capacity as High Contracting Parties to the Geneva Conventions of 1949, are under a legal obligation to seek out persons alleged to have committed, or to have planned and ordered to be committed, crimes amounting to grave breaches of the Geneva Conventions.

An international reflection: no Peace without Justice

The legal notion of accountability rests on the notion of justice, which is a necessary precondition to the achievement of sustainable peace. Palestinians and Israelis cannot enjoy a sustainable peace with the absence of justice. Whilst seeking a political resolution to the Palestinian-Israeli conflict and occupation, historical resolutions to conflicts in South Africa, the former Yugoslavia and Cambodia serve as examples of the impossibility of neglecting the rights of individual victims, including the right to effective legal remedies.

Peace and justice are not only required for the successful resolution of the actual conflict. The manner in which the United Nations and the international community address a violent attack on a civilian population, regardless of the perpetuating State, reflects its commitment to uphold international law and peace in the region and globally. Moreover, the failure to ensure that international justice is achieved in the absence of domestic justice, “reinforces impunity, and tarnishes the credibility of the United Nations and the international community.”¹

As Palestinian and Israeli human rights organisations, we echo the words of honourable Martin Luther King; “Injustice anywhere is a threat to justice everywhere”, and call for the use of international mechanisms to hold perpetrators, regardless of their nationality or rank, to account.

Conclusion

Mandated to promote universal respect for the protection of all human rights and fundamental freedoms for all, and to address gross and systematic violations of international law, the Human Rights Council is urged:

1. To condemn the responsible parties for their failure to comply with the obligation to carry out investigations in accordance with international standards; and,

¹ Report of the United Nations Fact-Finding Mission on the Gaza Conflict, Para. 1957.

2. To transmit the report of the Expert Committee, established by the Human Rights Council through Resolution 13/9 to the United Nations General Assembly and to the Secretary-General for further action, and;
3. To recommend to the United Nations General Assembly to urge the Security Council to act under Chapter VII of the United Nations Charter and to transfer the matter to the International Criminal Court for adjudication, and;
4. To encourage the High Contracting Parties to comply with their legal obligations, including the exercise of universal jurisdiction, in respect of grave breaches as set forth in the Geneva Conventions of 1949.
