



المركز الفلسطيني لحقوق الإنسان PALESTINIAN CENTRE FOR HUMAN RIGHTS

24 February 2010

Your Excellency,
The honourable President of the United Nations General Assembly

Re: UN General Assembly debate on the implementation of Resolution A/Res/64/10

In view of the UN General Assembly's upcoming debate on the implementation of Resolution A/Res/64/10, the Palestinian Centre for Human Rights (PCHR) expresses grave concern regarding the credibility of the investigations carried out by Israel, into allegations of serious violations of international humanitarian law and international human rights law, including those reported by the UN Fact Finding Mission on the Gaza Conflict (the Goldstone Report).

The Israeli offensive on the Gaza Strip between 27 December 2008 and 18 January 2009 resulted in the killing of over 1,400 Palestinians, the overwhelming majority of whom (82%) were civilians. At least 5,300 Palestinians were injured, and public and private property throughout the Gaza Strip was extensively targeted and destroyed. Investigations conducted, inter alia, by the UN Board of Inquiry, the Independent Fact Finding Mission mandated by the League of Arab States, along with the Goldstone Report, concluded that Israel committed numerous violations of international law, many of which give rise to individual criminal responsibility. The latter concluded that war crimes had also been committed by the Palestinian side and called both parties to take appropriate investigative action.

On 5 November 2009 the UN General Assembly endorsed the Goldstone Report and Resolution no. 64/10 requested the Government of Israel and the Palestinians 'to undertake investigations that are independent, credible and in conformity with international standards (...) towards ensuring accountability and justice', within a period of three months.

While the UN Secretary-General Ban Ki Moon in his report of 4 February 2010 A/64/651 stated that 'no determination can be made on the implementation of the resolution by the parties concerned', the annexed report issued by PCHR in February 2010, arrives at an entirely different conclusion. '*Genuinely Unwilling*' thoroughly analyses the reasons why Israel's investigations into the serious violations reported by the Goldstone Report can in no way be said to be 'independent, credible and in conformity with international standards' - as was requested by UN General Assembly. As the Report emphasizes,



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military investigations, which form the vast majority of investigations open to date, are inappropriate and legally inadequate, while civilian oversight has proven to be biased, partial, and in violation of international standards relating to the effective administration of justice.

The Goldstone report, because of its specific accountability-focused recommendations, represents an important landmark toward the respect of the human rights and international law in the occupied Palestinian territory. It is essential that the recommendations are implemented. In light of Israel's proven unwillingness to conduct genuine investigations and the Palestinian Authorities' inability, resort to mechanisms of international justice – including a Security Council referral to the International Criminal Court in accordance with Chapter VII of the UN Charter, or the exercise of universal jurisdiction – is the essential next step.

Contrary to the statement of the UN Secretary-General, a determination on the implementation of the resolution by the parties is possible at this stage. As illustrated in the attached report, Israel is unwilling to conduct investigations which are independent, credible and in conformity with international standards; indeed, the legal system as it currently stands renders such investigations impossible.

Both parties failed to comply within the three months deadline which was established by Resolution A/Res/64/10. PCHR calls upon the General Assembly to take account of the facts, reminding that numerous human rights bodies have stated that delays in effective investigations are equivalent to impunity. Given the current state-of-affairs in Israel further time cannot result in credible investigations.

The international community must not allow any State to act above the law. Without enforcement the rule of law becomes meaningless; it is Palestinian civilians who suffer the horrific consequences. It is the international community that will bear responsibility.

Sincerely,

Raji Sourani
Director, Palestinian Centre for Human Rights