

Catherine Ashton

High Representative of the Union for Foreign Affairs and Security Policy
Vice President of the European Commission

16 September 2011

Dear Baroness Ashton,

We are writing to you as the annual session of the UN General Assembly gets underway, in relation to the pursuit of accountability for victims of crimes under international law and follow-up to the Report of the UN Fact-Finding Mission on the Gaza Conflict.

To date, the victims of crimes under international law committed by all sides in the context of Israel's offensive on the Gaza Strip from 27 December 2009 to 18 January 2009 have not received justice, truth or reparations. It is unambiguously clear that all sides have failed to conduct domestic investigations that are prompt, effective, independent and in conformity with international law, and failed to prosecute suspected perpetrators. This failure has been confirmed by national and international human rights organizations, as well as the UN Committee of Independent Experts established by the Human Rights Council.¹

Consequently, the 16th session of the Human Rights Council recommended that the forthcoming session of the General Assembly submit the Report of the UN Fact-Finding Mission on the Gaza Conflict to the Security Council, with the recommendation² that the Security Council refer the situation in Israel and the Occupied Palestinian Territory to the Prosecutor of the International Criminal Court, pursuant to Article 13(b) of the Rome Statute.

As the national authorities are unable or unwilling to carry out genuine investigations or prosecutions, the pursuit of accountability at the international level is of urgent and paramount importance to combat the pervasive impunity for state and non-state actors in Israel and the Occupied Palestinian Territory. Enforcing international law and pursuing accountability for crimes under international law by all sides is the only deterrent to further violations and the continuing denial of human rights of the victims.

We request that you support the recommendation of the Human Rights Council, and act decisively to pursue accountability and uphold victims' rights. The two-year process triggered by the Report of the Fact-Finding Mission must be allowed to reach its full legal conclusion.

1. In A/HRC/16/24, the Committee of Independent Experts held that: "there is no indication that Israel has opened investigations into the actions of those who designed, planned, ordered and oversaw Operation Cast Lead."

2. Resolution A/HRC/16/32, adopted on 25 March 2011: "*Recommends that the General Assembly reconsider the report of the United Nations Fact-Finding Mission on the Gaza Conflict at its sixty-sixth session, and urges the Assembly to submit that report to the Security Council for its consideration and appropriate action, including consideration of referral of the situation in the Occupied Palestinian Territory to the prosecutor of the International Criminal Court, pursuant to article 13(b) of the Rome Statute.*"

The failure to administer justice domestically means that victims' rights can only be upheld through international justice mechanisms, and most appropriately the International Criminal Court.

We note that recognition of Palestine's statehood is set to become a centre-point of diplomatic discussion at the upcoming General Assembly. However, the pursuit of accountability in no way conflicts with this discussion. Accountability for crimes under international law applies at all times, and to all peoples, regardless of any other criteria.

Indeed, at such a time, it is imperative that the international community sends the clear and unambiguous message that accountability for crimes under international law will be pursued, irrespective of any political considerations.

Yours sincerely,

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Palestinian Centre for Human Rights (PCHR)



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AL-HAQ



Al Mezan Center for Human Rights