



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

"Dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights"

12th Special Session of the UN Human Rights Council

ICJ Intervention on Human Rights Situation in the Occupied Palestinian Territories and East Jerusalem

16 October 2009

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Madam High Commissioner,
Mr. President,

In a deeply disappointing development on 2 October 2009, the Council failed to endorse and implement the findings and recommendations of the Fact-Finding Mission on the Gaza conflict headed by Justice Goldstone.

Acting under strain, the Council relied on the commitments by the Government of Israel and the Palestinian Authority to carry out domestic investigations. However the ICJ highlights that the Israeli investigations have been largely perceived as ineffective as they lacked safeguards of independence and impartiality. After the end of the military operations in Gaza, the Israeli Government announced that it would take necessary measures to protect its soldiers from all legal action and, yesterday, the Israeli Ambassador in the UN headquarters in New York continued to deny that the IDF had committed any crime under international law. The Palestinian Authority and Hamas have never investigated the allegations of crimes.

For how long will the calls for accountability of all perpetrators of alleged war crimes and crimes against humanity committed throughout the conflicts in the Occupied Palestinian Territories continue to be disregarded?

~~It is a duty of both parties to conduct a prompt, thorough, effective, independent and impartial investigation into alleged war crimes and crimes against humanity in accordance with international standards. If the investigations would not have the purpose of bringing the alleged perpetrators to justice, these would be absolutely inconsistent with such duty under international law. It is essential to identify, prosecute and punish the authors of such crimes, as well as civilian leaders and military commanders who should be held to account, under the principle of command responsibility.~~

The requests for national investigations do not restrict the duty of every State and of the international community to stop condoning pervasive impunity, and prepare the ground for the investigation and possible prosecution all those suspected of serious violations of international law.

~~The Fact-Finding Mission's report and its recommendations must be endorsed by this Council, which is requested to establish a collective expert mechanism to seek information on and review the implementation of the recommendations by all parties within six-month time from this Special Session. The Security Council, under Chapter VII of the UN Charter or under~~

33, rue des Bains, P.O. Box 91, 1211 Geneva 8, Switzerland

Tel: +41(0) 22 979 3800 - Fax: +41(0) 22 979 3801 - Website: <http://www.icj.org> - E-mail: info@icj.org