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ICJ Intervention on the Human Rights Situation in Palestine and Other Occupied Arab Territories - Follow-up to the 9th and 12th Special Sessions of UN Human Rights Council

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There has been no progress in achieving accountability for alleged gross violations of human rights and serious violations of international humanitarian law constituting crimes under international law committed during the Gaza conflict in December 2008 and January 2009. In this regard, both Israel and Hamas have failed to meet their responsibilities under international law and General Assembly resolution 64/10. This resolution requested both parties to conduct investigations within a three-month period that are independent, credible and in line with international standards, with a view to ensuring accountability and justice.

However, Israeli officials and military personnel and members of Hamas and other Palestinian armed groups continue to benefit from impunity due to a lack of any effective national investigations or action to address accountability.

Israel's investigations into credible allegations of breaches of international law by its forces during the war in Gaza have failed to meet international standards of effectiveness and independence. The investigations conducted so far have been undertaken by army commanders and military police criminal investigators under the supervision of the Military Advocate General (MAG), whose office provided legal advice to the Israeli Defense Forces (IDF) during the planning and execution of the military operations in Gaza. Even when these investigations revealed that the IDF had targeted civilian objects resulting in civilian deaths, the Military Advocate General found no basis to order criminal investigations.

The Hamas administration in Gaza, for its part, has failed to provide any concrete evidence of having investigated credible allegations of rocket attacks against civilians and civilian objects in Southern Israel by means that could not discriminate between civilians and military targets committed by its forces and other Palestinian armed groups during the conflict. Instead, Hamas issued flat denials, asserting that these attacks were directed only at military targets.

As both parties have so far failed to implement the key recommendation of the Fact-finding Mission on Gaza conflict led by Justice Goldstone, the ICJ calls for further robust action by this Council, the General Assembly and the Security Council to respond to the prevailing impunity.

It is a shared responsibility to enforce the implementation of recommendations by the Fact-finding Mission, which uncovered widespread violations by both parties, many amounting to war crimes, and possibly crimes against humanity. The ICJ urges this Council to assist in establishing an expert group to monitor progress of national investigations and help the international community establish accountability for serious crimes committed during the Gaza conflict.

In addition, the ICJ considers that the UN Security Council should follow the General Assembly in urging effective investigations into the violations documented in the Fact-finding Mission's report and monitoring the performance by the parties in this respect. Taking necessary action under Chapter VII of the UN Charter, the Security Council should also refer

this situation to the International Criminal Court to ensure that alleged perpetrators of war crimes and crimes against humanity are investigated and held criminally accountable.

I thank you.