

UNITED NATIONS GENERAL ASSEMBLY, 64TH SESSION

ITEM 64:

REPORT OF THE HUMAN RIGHTS COUNCIL

STATEMENT

BY

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TO THE UNITED NATIONS**

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CHECK AGAINST DELIVERY

Mr. President

We appreciate this opportunity to address the report of the UN Fact-Finding Mission on the Gaza conflict. The substance of the report has been previously discussed, both at the Human Rights Council and in the last open debate of the Security Council. We were disappointed by the two decisions that the Human Rights Council adopted on the important report before us and hope that today's debate will result in a responsible and appropriate decision of the only universal organ of the United Nations.

Mr. President

We look at the report before us as part of the larger picture in the area of accountability – a topic with which the UN organs have been struggling on a regular basis. On the one hand, both this Assembly and the Security Council have intensified their efforts to enhance the protection of civilian populations in times of armed conflict. One clear expression of this stronger commitment was the agreement on the principle of the responsibility to protect civilian populations. This responsibility falls primarily on States, but also on the international community as a whole – in cases where national authorities are manifestly failing to protect civilian populations. On the other hand, we have witnessed the continuing erosion of respect for international humanitarian law, which is the prime guarantor of such protection in practice. And, most importantly, there has been no consistency in our efforts to ensure accountability. The question can therefore be asked, why we have such a comprehensive report before us on the military operations in Gaza several months ago, when possible massive violations of international humanitarian law in the context of counterinsurgency operations in other parts of the world have not been subject to any such credible investigations. We are facing a problem of selectivity that we are familiar with from the broader human rights discourse, and we need to address it. But silence on everything must of course not be our approach.

Mr. President

Over the past decade, this organization has made very significant progress in the area of accountability and in the fight against impunity. It is generally accepted that there can be no impunity and no amnesties for the most serious crimes under international law – genocide, crimes against humanity and war crimes. It is also generally recognized that national judiciaries have the primary responsibility to investigate and prosecute where such crimes have been committed. Where they fail to do so, international law requires that other actors step up to ensure that there is no impunity for such crimes. This is also the conceptual basis of the International Criminal Court - the most important expression of the principle of complementarity.

Mr. President

The report of the fact-finding mission contains very serious and very disturbing findings. It is by its mandate and character not a criminal investigation, but clearly there is a need for such investigations on the basis of the vast material it has collected. In considering the report of the Fact-Finding Mission, this Assembly is now called upon to act in accordance with the principle of the primary responsibility of the parties to the conflict – which was advocated by the Mission itself. We therefore hope that the resolution to be adopted at the end of this debate will focus on the responsibility of the parties to the conflict to investigate and prosecute allegations of serious violations of international humanitarian law. This, we believe, has emerged as a strong common element in the positions taken in a very controversial political discussion. Such investigations should be carried out in accordance with relevant international standards, and there should be a possibility for the General Assembly to consider the issue again, when necessary with a view to taking further action, on the basis of a report of the Secretary-General.

Thank you