

Presented to the League of Arab States.
30 April 2009

The Independent Fact Finding Committee on Gaza to the League of Arab States (the Committee) was established in February 2009 with the tasks of investigating and reporting on violations of human rights law and international humanitarian law during the Israeli military offensive (hereinafter operation Cast Lead) against Gaza from 27 December 2008 to 18 January 2009 and collecting information on the responsibility for the commission of international crimes during the operation. The report was presented to the League of Arab States on 30 April 2009.

Responsibility Of Israel

(1) The Committee has found that members of the IDF committed war crimes, crimes against humanity and, possibly, genocide in the course of operation Cast Lead. Those responsible for the commission of such crimes are individually responsible for their actions, as are those who ordered or incited the commission of such crimes or participated in a common purpose to commit such crimes. Military commanders and political leaders are likewise responsible for crimes committed under their effective command, authority or control where they knew or should have known the forces were committing such crimes and they failed to prevent or repress the commission of such crimes or to investigate and prosecute those responsible.

Responsibility Of Hamas

As the governing de facto authority of Gaza, Hamas may be held responsible for violations of international humanitarian law attributed to it. Individuals who have fired rockets indiscriminately into Israel are criminally responsible for their actions and must be held accountable for them under the law governing the commission of war crimes. In assessing the responsibility of Hamas and individual Palestinian militants there are a number of factors that reduce their moral blameworthiness but not their criminal responsibility. Such factors include the fact Palestinians have been denied their right to self-determination by Israel and have long been subjected to a cruel siege by Israel.(.)

Recommendations to Organs of the United Nations

(1) The League of Arab States should request the General Assembly of the United Nations to request the International Court of Justice to give an advisory opinion on the legal consequences for states, including Israel, of the conflict in Gaza between 27 December 2008 and 18 January 2009 (the Conflict in Gaza).

(2) The League of Arab States should request the Security Council to refer the situation in Gaza, arising from Operation Cast Lead, to the Prosecutor of the International Criminal Court under Article 13(b) of the Rome Statute.

(3) The League of Arab States should request the Security Council, failing which, the General Assembly, to exercise its **Responsibility to Protect**, affirmed in the Summit Outcome Document of 2005 in respect of Gaza.

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