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**HUMAN RIGHTS SITUATION IN PALESTINE
AND OTHER OCCUPIED ARAB TERRITORIES**

**Joint written statement* submitted by the Child Development Foundation (CDF),
a non-governmental organization in special consultative status, and the
African-American Society for Humanitarian Aid and Development (ASHAD),
a non-governmental organization on the Roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 August 2009]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Killing of Palestinian civilians during operation cast lead in Gaza

Several independent human rights agencies document incidents where Israeli soldiers fired on civilians with small arms during Israel's major military operations in Gaza in December 2008 and January 2009.

Human Rights Watch (HRW) alone documents seven incidents where these attacks killed 11 civilians—including five women and four children—and wounded at least another eight.

While we appreciate the effort done by (HRW) documenting the phenomena called (white flag death), we need to emphasize that the casualties documented comprise a small fraction of the Palestinian civilians killed and wounded during what Israel called Operation Cast Lead.

In each case documented, the victims were standing, walking, or in a slowly moving vehicle with other unarmed civilians who were trying to convey their noncombatant status by waving a white flag. All available evidence indicates that Israeli forces had control of the areas in question, no fighting was taking place there at the time, and Palestinian fighters were not hiding among the civilians who were shot.

Whether waving a white flag or not, these people were civilians not taking an active part in hostilities, and therefore should not have been attacked, according to international humanitarian law (the laws of war).

In each of these incidents, the evidence strongly indicates that, at the least, Israeli soldiers failed to take feasible precautions to distinguish between civilians and combatants before carrying out the attack. At worst, the soldiers deliberately fired on persons known to be civilians.

Under the laws of war, parties to an armed conflict must take all feasible measures to distinguish between civilians and combatants, and they may target only combatants.

The laws of war also oblige states to conduct impartial investigations into credible allegations of serious laws-of-war violations, and to hold accountable anyone found responsible for war crimes, regardless of rank.

To date, however, the Israeli government and IDF have failed to conduct serious investigations into many of the credible allegations of laws-of-war violations by Israeli forces during Operation Cast Lead. When Israeli soldiers who fought in the operation spoke publicly about attacks on civilians and other violations, the IDF dismissed their claims as hearsay and exaggerations, and criticized the soldiers for speaking out!?

In the killings documented by (HRW) report, Human Rights Watch found no evidence that the civilian victims were used by Palestinian fighters as human shields or were shot in the crossfire between opposing forces.

In July, the organization breaking the Silence, composed of veteran Israeli soldiers, published the testimonies of 26 unnamed reserve and regular combat soldiers who had participated in Operation Cast Lead. The testimonies indicate wrongdoing for civilian deaths during the Gaza fighting.

In late July Israel announced that the IDF was investigating roughly 100 complaints of alleged soldier misconduct in Gaza, with 13 criminal investigations opened so far. The IDF's investigation failed to include any of the incidents documented by human rights organizations.

(ASHAD) and (CDF) called for an independent and impartial international investigation into violations because of the repeated failure in the past by Israel to conduct credible investigations into alleged violations of the laws of war by their own forces.

On January 12, the United Nations Human Rights Council voted to investigate violations by Israel against Palestinians. The UN Fact Finding Mission on the Gaza Conflict is headed by Justice Richard Goldstone from South Africa, former chief prosecutor of the international war crimes tribunals for the former Yugoslavia and Rwanda. Israel has refused to cooperate with the mission because it views the Human Rights Council as biased against Israel. It denied visas for Goldstone's team to visit Israel so the mission invited Israelis to testify at public hearings in Geneva.⁷ Hamas said it would cooperate with the mission, and Goldstone's team visited Gaza, via Egypt, in early June.

WHILE (ASHAD) and (CDF) are welcoming the fact-finding mission which will submit a report to the Human Rights Council in September 2009, they request the Human Rights Council to adopt the following recommendations:

- Israel should give full consideration to the mission's findings and recommendations.
- Members of the Human Rights Council and other concerned governments should also duly consider the report and take steps to promote accountability for violations of international humanitarian law by Israel.
- Calls on UN member states to establish a dedicated UN mechanism that would monitor and report on efforts by Israel to conduct transparent and impartial investigations into allegations of serious laws-of-war violations committed during the recent hostilities in Gaza, and prosecute those responsible.
- In the event that Israel authorities are unable or unwilling to investigate and prosecute through fair trials those responsible for war crimes, UN member states should press for the use of international prosecutions.
