

# AMNESTY INTERNATIONAL PUBLIC STATEMENT



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## **Palestine should accede to the International Criminal Court now**

One year ago, the UN General Assembly voted to recognize Palestinian statehood. In the year since then, the Palestinian leadership has taken no statesmanlike steps. It has not signed any UN treaties that would protect human rights, or the Geneva Conventions, or the Rome Statute of the International Criminal Court (ICC). It should do so without further delay.

More than 16,500 Amnesty International activists around the world have signed petitions and written letters to Palestinian President Mahmoud Abbas to persuade him that acceding to the ICC will show that no party will again be able to commit international crimes against civilians with impunity on Palestinian territory. This promise has been deferred, Amnesty International was told in meetings with the Palestinian Authority earlier this year, while efforts are put into diplomatic negotiations with Israel. Yet, unless ending impunity and human rights abuses are at the heart of diplomacy, a just and enduring resolution of the Israeli-Palestinian conflict will remain elusive. The International Criminal Court and other international justice mechanisms such as universal jurisdiction are important potential avenues towards accountability for victims of crimes under international law on all sides.

Meanwhile, waiting for a diplomatic resolution is excruciating for people who have lost loved ones in past conflicts, especially when prospects for justice or even credible investigations seem remote.

“Why? Were my wife, my children and my grandchildren and my paralyzed sister terrorists? Did they harm Israel in any way? I want to see justice done; I don’t want anything else, only justice,” said Jamal al-Dalu, interviewed by Amnesty International on 23 November 2012. A large aerial bomb was dropped without warning on the three-storey al-Dalu family home in Gaza City on 18 November 2012, during Israel’s Operation “Pillar of Defense”. All 10 members of the extended family who were there at the time, including five children and four women, were killed, as well as two neighbours: seven-year-old Sara, five-year-old Jamal, four-year-old Yousef, nine-month-old Ibrahim, and their parents Samah ‘Abd al-Hmeid al-Dalu, 25, and Muhammed Jamal al-Dalu, 29; Ranin Jamal al-Dalu, 25, Yara Jamal al-Dalu, 16, and their mother Tahani Hassan al-Dalu, 52; and Suheila Mahmoud al-Dalu, 75, and ‘Abdullah and Amina al-Muzannar. Amnesty International believes the attack should be independently investigated as a possible war crime. Israel’s Military Advocate General decided not to open a criminal investigation into the deaths of the al-Dalu family and their neighbours or to take disciplinary measures against any soldiers or officers involved. Jamal al-Dalu is left waiting for the justice, truth and reparation he is entitled to.

He is not alone. Scores of complaints were submitted to Israel’s Military Advocate General following Operation “Pillar of Defense”, including many cases of Israeli attacks on the Gaza Strip which may well have been war crimes, but to date no criminal investigations have been opened to Amnesty International’s knowledge. Throughout the Occupied Palestinian Territories, people whose relatives were killed by Israeli forces in acts violating international law still cling to the hope of seeing justice, even though they know that Israel’s military justice and investigations systems are stacked against them. Since Israel’s military investigations have consistently failed to ensure accountability, the Palestinian Authority and other actors must ensure that international justice mechanisms are activated.

Acceding to the Rome Statute would mean that, in the future, the ICC could investigate and prosecute such crimes, if the national authorities are unable or unwilling to do so. Accompanying this with a new declaration stating that Palestine accepts the ICC's jurisdiction over crimes committed since 1 July 2002 (when the Rome Statute came into force) would demonstrate that the Palestinian leadership has not abandoned victims and their quest for accountability for previous crimes under international law, and enable potential action by the ICC on some of these cases. It is high time for President Mahmoud Abbas to pick up his pen, sign the Rome Statute, and submit such a declaration, as well as signing other international human rights treaties and the Geneva Conventions.

### **Background**

Since the Rome Statute of the International Criminal Court was agreed in July 1998, Amnesty International has consistently urged all states to accede to it. Until now, 122 countries have done so, with the most recent, Côte d'Ivoire, joining earlier this year. Amnesty International continues to urge all states which have yet to sign, ratify, and accede to the Statute, including Israel, to do so without further delay.

In January 2009, in the aftermath of the Operation "Cast Lead", the 22-day conflict in Gaza and southern Israel, the Palestinian Authority submitted a declaration to the ICC under Article 12(3) of the Rome Statute, stating that it recognized the ICC's jurisdiction over crimes under international law committed "on the territory of Palestine since 1 July 2002", with the intention of enabling the Office of the Prosecutor to conduct a preliminary examination into crimes committed during the operation. On 3 April 2012, the Office of the Prosecutor concluded that it was unable to proceed with investigating and prosecuting these crimes unless the relevant UN bodies (in particular, the Secretary General and General Assembly) or the ICC Assembly of States Parties decided that Palestine qualifies as a state for the purpose of acceding to the Rome Statute. Amnesty International believes that UN General Assembly Resolution 67/19, "Status of Palestine in the United Nations", which recognized Palestine as a non-member observer state and was passed overwhelmingly on 29 November 2012, answered that question. In a report issued earlier this week, the ICC Office of the Prosecutor acknowledged that "Palestine's status at the UNGA is of direct relevance to the issue of the Court's jurisdiction," but concluded that it had no legal basis to open a new preliminary examination "at this stage."

Amnesty International has repeatedly called for the UN General Assembly to refer the Fact-Finding Mission's report on the 2008-2009 Gaza-Israeli conflict to the UN Security Council with the recommendation that it refer the situation to the Prosecutor of the ICC to investigate crimes under international law by both sides.

### **Further information**

*A year on from deadly Israel/Gaza conflict, the nightmare continues*, issued on 14 November 2013 (<http://www.amnesty.org/en/news/year-deadly-israelgaza-conflict-nightmare-continues-2013-11-14>)

Field Code Ch

*Blind to violations, deaf to obligations: Israel's human rights record*, Amnesty International Updated Submission to the UN Universal Periodic Review, September 2013 (Index: MDE 15/015/2013), issued on 1 October 2013 (<http://www.amnesty.org/en/library/info/MDE15/015/2013/en>)

Field Code Ch

*Accountability needed for killings in Israeli raid on West Bank refugee camp*, issued on 27 August 2013 (<http://www.amnesty.org/en/news/israelopt-accountability-needed-unlawful-force-raid-west-bank-refugee-camp-2013-08-27>)

Field Code Ch

*Israel's military investigations into Gaza violations strengthen impunity*, issued on 17 April 2013 (<http://www.amnesty.org/en/news/israel-s-military-investigations-gaza-conflict-violations-strengthen-impunity-2013-04-17>)

Field Code Ch

*Palestine UN status upgrade should open door to justice*, issued on 30 November 2012  
(<http://www.amnesty.org/en/news/palestine-UN-status-upgrade-should-open-door-to-justice-2012-11-30>)

Field Code Ch

*Amnesty International's response to the ICC Office of the Prosecutor's statement that it cannot investigate crimes committed during the Gaza conflict* (Index: MDE 15/018/2012), issued on 4 April 2012 (<http://www.amnesty.org/en/library/info/MDE15/018/2012/en>)

Field Code Ch

*Amnesty International's updated assessment of Israeli and Palestinian investigations into the Gaza conflict* (Index: MDE 15/018/2011), issued on 18 March 2011  
(<http://www.amnesty.org/en/library/info/MDE15/018/2011/en>)

Field Code Ch

*Amnesty International's assessment of Israeli and Palestinian investigations into the Gaza conflict* (Index: MDE 15/022/2010), issued on 27 September 2010  
(<http://www.amnesty.org/en/library/info/MDE15/022/2010/en>)

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