

## **Human Rights Now's response to the ICC Office of the Prosecutor's statement regarding the situation in Gaza**

**24<sup>th</sup> April 2012**

In April 3 2012, the Office of the Prosecutor (OTP) of the International Criminal Court (ICC) announced that the OTP decided not to begin investigation over cases regarding the suspected commission of grave war crimes and possible crimes against humanity in the context of Israel from December 2008 to January 2009.

In January 2009, The Palestinian Authority submitted a declaration to the ICC accepting the jurisdiction of the ICC in accordance with Article 12(3) of the Rome Statute of the ICC (Rome Statute). After this submission, the OTP initiated the preliminary examination, and it took more than three years to review and reach the aforementioned conclusion. Human Rights Now, an international human rights NGO based in Japan, expresses its extreme disappointment and deep concern on its announcement by the OTP.

The OTP reached the above conclusion by establishing that he did not have the authority to determine whether Palestine was a "state" for the purposes of Article 12(3) of the Rome Statute (allowing non-state parties to the Statute to recognize the jurisdiction of the ICC), but that it was for the "relevant bodies" at the United Nations or the ICC Assembly of States Parties to make that legal determination.

However, HRN considers this decision inconsistent with the objective of the ICC which is to strengthen establish the rule of law. The ICC was established to affirm "that the most serious crimes of concern to the international community as a whole must not go unpunished" and "to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes" as "an independent permanent International Criminal Court" (the Preamble of the Roma Statue). HRN strongly recommends that the prosecutor "seek a ruling from the court regarding a question of jurisdiction or admissibility" (Article 19(3) of the Rome Statute), not from the UN General Assembly or from the ICC Assembly of States Parties, and that this should be consistent with the procedures established by the Rome Statute.

It has been more than three years since the submission of a declaration by The Palestinian Authority, while the victims have been left neglected. HRN has repeatedly asserted that the assaults in Gaza are grave war crimes and crimes against humanity which have affected over 1,400 victims including women and children.

HRN urges the OTP to reconsider the position of its statement and to seek a judicial ruling from the Court on the jurisdiction of the ICC in this situation.

HRN calls for the UN Security Council to implement the recommendation of the UN Fact-Finding Mission on the Gaza Conflict, which refers the Gaza situation, to the ICC Prosecutor pursuant to Article 13(b) of the Rome Statue.