

On Wednesday, 15.5.2013, the Chief Prosecutor of the International Criminal Court (ICC), Mrs. Fatou Bensouda, held an informal meeting with state representatives of the group *Friends of the ICC*. In view of my work at the Geneva Academy of Humanitarian law and Human Rights, I was invited to take part in the meeting.

During the meeting, Mrs. Bensouda presented the agenda of the Court and reviewed the cases currently being heard. Surprisingly, Mrs. Bensouda omitted any mention of the resolution dated 14.05.2013 to conduct a preliminary inquiry into the Israeli raid on the Gaza-bound flotilla (the MV Mavi Marmara incident). Mrs. Bensouda was asked many questions about the ICC and Office of the Prosecutor's ability in particular, to cooperate with the High Council and the various committees of inquiry that operate within the framework of the Council. According to Mrs. Bensouda, the reports discussed by the Council can assist the Office of the Prosecutor to examine various issues and obtain vital information, but due to the fact that the threshold of proof applied by these investigative committees is significantly lower than that demanded by the Prosecutor in the ICC (beyond reasonable doubt) there is little likelihood that the Prosecutor would use the above material exclusively.

Later in the discussion, following a question asked by the representative of Brazil regarding the Goldstone Report and the Palestinian Authority's request that the matter be referred to the Court – a request rejected by her predecessor – Mrs. Bensouda was asked whether following the change in the status of the Palestinian Authority to that of an observer state, the position of the Office of the Prosecutor would also change and it would open an investigation into alleged violations of the laws of war during Operation Cast Lead. The Chief Prosecutor's response was that "the ball is in the hands of the Palestinians". In other words, the Chief Prosecutor's approach is that if Palestine wishes the Court's jurisdiction to apply to the events in question, it must, like any other country, make a statement on the matter or sign the Treaty of Rome. This would mean that the Court would have general jurisdiction over *all* the crimes allegedly committed in "Palestine" so that the likelihood is that the Palestinians would not be interested as they too would come under the Court's jurisdiction.